

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION, CINCINNATI
4

5 EVERETT W. WHISMAN, et al.: Case No. C-1-02-406
6 Plaintiffs, : Judge Beckwith
7 v. : Magistrate Sherman
8 ZF BATAVIA, LLC, et al., :
9 Defendants. :
10

11 Deposition of MICHAEL STEWARD, taken on
12 Tuesday, August 12, 2003, commencing at 11:18 a.m.,
13 at the offices of Baker & Hostetler LLP, 312 Walnut
14 Street, Suite 3200, Cincinnati, Ohio, before
15 Susan M. Barhorst, Notary Public.
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18
19
20

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12

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16

Cross-Examination

17

by Mr. Hunter 4, 140

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by Mr. VanWay 83

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1	STEWARD DEPOSITION EXHIBITS	MARKED/IDENTIFIED
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1 MICHAEL STEWARD

2 being first duly sworn, testified as follows:

3 CROSS-EXAMINATION

4 BY MR. HUNTER:

5 Q. Sir, will you please state your name
6 for the record?

7 A. Michael Steward.

8 Q. And your current address?

9 A. 7386 Starkey-Clevenger,
10 C-L-E-V-E-N-G-E-R, Road. That's Blanchester, Ohio.

11 Q. Mr. Steward, my name is John Hunter.
12 I represent ZF Batavia. I don't think we've ever
13 met before today, have we?

14 A. No.

15 Q. Have you ever been deposed before?

16 A. No.

17 Q. All right. You sat through a little
18 bit of Mr. Vories' deposition, but let me give you
19 a couple ground rules with respect to the
20 deposition. The format is just basically a
21 question and answer format. I'm going to ask you
22 questions regarding litigation that has been filed
23 by yourself and others.

24 If at any point in time you can't hear

1 me, I mumble, I speak too quickly or if for
2 whatever reason you just don't feel you can fairly
3 answer my question, I want you to stop me and let
4 me know, okay?

5 A. Yes.

6 Q. Is there anything today that would
7 prevent you from being able to go forward with your
8 deposition, in terms of a personal issue, a health
9 issue or anything like that?

10 A. No.

11 Q. Okay. You've heard me use in
12 Mr. Vories' deposition the term "Ford
13 transitional"?

14 A. Yes.

15 Q. You understand by that term, I mean an
16 employee of Ford Motor Company that transitioned
17 over to ZF Batavia, the joint venture in 1999?

18 A. Yes.

19 Q. Okay. Are you a Ford transitional
20 employee?

21 A. Yes.

22 Q. Okay. When did you start with Ford
23 Motor?

24 A. Actually I started in 1977, worked

1 till mid '79, then came back in '83, August 8, '83.

2 Q. Okay. And when you hired on with
3 Ford, what was your position?

4 A. Production supervisor.

5 Q. And prior to Ford, where had you been
6 employed?

7 A. I was basically in college, been out
8 for a couple years. I've worked for 84 Lumber
9 Company. I did some different jobs, sales,
10 marketing.

11 Q. Okay. And in the period of '79 to
12 '83, was that a layoff from Ford?

13 A. No, actually -- no, actually was I
14 quit to go to a company downtown, Gidding Jennings.

15 Q. I'm sorry. Which company?

16 A. Gidding Jennings.

17 Q. Okay. And why did you quit Ford?

18 A. I felt that -- I was working a lot of
19 overtime at the time. I was young. I had a
20 college degree. I felt like there might be a
21 another opportunity to do something a little
22 different in a different field. I didn't want to
23 work in a factory at the time because I was young.
24 I was 25, 26 years old.

1 Q. Okay. And then why did you come back
2 to Ford?

3 A. Well, I had had some discussions with
4 the superintendent I had worked with prior to
5 leaving and the opportunities were going to be good
6 for me to come back. It was a stable economy at
7 the time and it was something that I felt like it
8 was an opportunity to get back into Ford Motor
9 Company, which was a very good company.

10 Q. And who was the superintendent you had
11 these discussions with?

12 A. At that time, it was Floyd Mason, who
13 has since retired.

14 Q. Did you sign an application, then, to
15 come back --

16 A. Yes.

17 Q. -- to be employed by Ford?

18 A. Yes.

19 Q. And when you hired back in with Ford,
20 what did you hire back in as?

21 A. Supervisor.

22 Q. At the time of the joint venture, what
23 was your position at Ford?

24 A. Superintendent.

1 Q. And would that have been a management-
2 level position --

3 A. Yes.

4 Q. -- within Ford?

5 A. Yes.

6 Q. And as a superintendent for Ford, were
7 you paid overtime?

8 A. Yes.

9 Q. And what was the basis for payment of
10 overtime at Ford?

11 A. I don't know -- understand what you're
12 asking me.

13 Q. How did Ford -- as a superintendent,
14 how were you paid overtime, in terms of how was it
15 calculated? How was it figured? How was it paid?

16 A. Oh, the policy was the same for all
17 grade levels up to grade 10. So as a -- generally
18 salary -- general salary roll, whatever the first-
19 line supervisors had for the next level, which was
20 an MPS level to a superintendent level, everything
21 through a grade 10 was paid basically the same.

22 Q. And how was that paid? You say it was
23 paid the same. But I mean, what was --

24 A. Well, it was an hourly rate.

1 Q. Okay. And how much was the hourly
2 rate?

3 A. I don't recall exactly. 35, \$40 -- 35
4 I think for Saturdays and daily overtime. \$40 or
5 something like that for Sundays.

6 Q. Okay. Did the rate change from time
7 to time?

8 A. Yes.

9 Q. Okay. The --

10 A. I'm not exactly -- I don't -- I don't
11 recall exactly what the numbers were.

12 Q. Okay. The -- in terms of the -- the
13 overtime policy, were you paid from minute one or
14 was -- are you familiar with the notion of casual
15 overtime or how did that work?

16 A. Yeah. You were supposed to give them
17 up to an hour casual time. Anything over an hour,
18 you were paid. Basically if -- if you put in an
19 hour, you were paid the hour.

20 Q. And, again, I've heard some folks tell
21 me that, again, at 59 minutes, you weren't going to
22 get paid. You hit the hour, you would get paid?

23 A. That's correct.

24 Q. Okay.

1 A. But for the most part, you didn't put
2 in just one hour. It was usually historically more
3 than just an hour.

4 Q. Okay. Well, some folks have said that
5 casual time could be somewhere between 15 minutes
6 to 30 minutes or perhaps more at the beginning of
7 shift and end of the shift, kind of a routine and
8 kind of the concept of passing off to the following
9 shift?

10 A. Correct.

11 Q. That sounds accurate to you?

12 A. I think the Ford policy is 40 minutes
13 of casual time per day.

14 Q. Do you have anything in writing with
15 respect to that?

16 A. I'm pretty sure that if you looked
17 into the policies of Ford Motor Company, that you
18 would find that 40 minutes of daily overtime -- I
19 mean, 40 minutes of daily is -- was pretty much
20 what you were required to do.

21 Q. Okay.

22 A. But for the most part, everybody at
23 least worked an hour of casual time. And then once
24 they got over the 40 -- hour, they got paid for it.

1 Q. All right. So under the Ford system,
2 okay, and let's talk at least 1999 when you were a
3 superintendent at Ford. If you worked an hour and
4 15 minutes of overtime at Ford, what would you be
5 paid for?

6 A. An hour.

7 Q. An hour? What happened to the 15
8 minutes?

9 A. You basically just dedicated that
10 amount of time to the company.

11 Q. Okay.

12 A. You just gave it up.

13 Q. Okay.

14 A. You didn't even think about it.

15 Q. If you worked an hour and a half, how
16 much would you paid for?

17 A. The hour.

18 Q. Okay. And the half hour again was
19 kind of --

20 A. Well, it was -- well, let me step back
21 and say it another way. At one time, you could get
22 the hour, hour and a half. As a superintendent,
23 I -- I did not do that personally.

24 Q. Okay.

1 A. There were people that got paid for
2 the half an hour.

3 Q. Okay.

4 A. And that did change, I think, later
5 on, but I -- I can't recall exactly when it did
6 change. But at one time, you got paid for the half
7 an hour.

8 Q. Okay. All right. And when you came
9 over to Batavia, did you come over as a
10 superintendent?

11 A. Yes.

12 Q. Do you remember, did you get a bump in
13 pay or anything?

14 A. Yes.

15 MR. SIMON: Just for clarification,
16 are you talking about the Batavia plant or ZF
17 Batavia?

18 MR. HUNTER: Let me clarify.

19 MR. SIMON: I didn't --

20 MR. HUNTER: I said that poorly. I
21 think the witness understood. But when I said
22 "Batavia," I meant ZF Batavia.

23 THE WITNESS: When I came from Ford in
24 a transition --

1 MR. HUNTER: Mm-hmm.

2 THE WITNESS: -- no, I don't believe I
3 got an increase in pay. I might have, but I don't
4 recall it being -- if it was -- if I got an
5 increase, it wasn't much.

6 BY MR. HUNTER:

7 Q. Okay. But you came over as a
8 production superintendent?

9 A. Yes.

10 Q. Okay.

11 A. Although I think the title changed and
12 was more of a business manager than I was a
13 superintendent.

14 Q. Okay.

15 A. But when I came from Sharonville to
16 Batavia in the Ford world, it was a promotional
17 opportunity. I thought that's what you were
18 talking about --

19 Q. Okay.

20 A. -- when you first asked me that.

21 Q. Okay. No, poor question on my part.
22 I meant the transition to ZF Batavia from Ford
23 Motor Company.

24 A. Okay.

1 Q. All right. Did you attend any of the
2 organizational meetings?

3 A. Yes.

4 Q. All right. Which ones did you attend,
5 if you recall?

6 A. I don't know exactly recall. I think
7 both of the informational meetings that were held
8 up front in the cafeteria.

9 Q. Do you remember the dates for those
10 meetings?

11 A. No, not offhand.

12 Q. We've heard about when the JV was
13 announced that outside the hospital area in the
14 plant, that there was a screen and that Nasser came
15 on and -- and announced the JV. Do you remember
16 any of that?

17 A. Yes.

18 Q. Were you present for that?

19 A. Yes.

20 Q. Would that, then, be in addition to
21 the two meetings in the cafeteria?

22 A. Yes.

23 Q. The Nasser announcement, do you
24 remember any details with respect to what was said

1 at that time?

2 A. Specific details -- they -- no. Other
3 than just it was just a general statement -- a
4 general announcement that Ford and ZF had come to
5 an agreement to build CVT transmissions,
6 opportunity for Ford in the future.

7 Q. Anything else about that announcement
8 or that meeting or whatever you want to call that?

9 A. No.

10 Q. Was there any discussion about what
11 was going to happen to Ford employees at that point
12 in time?

13 A. Not that I recall.

14 Q. Okay.

15 A. It was just a general announcement of
16 a business announcement, a joint venture being
17 established. The opportunity for a Continuous
18 Variable Transmission being built at Batavia, CVT
19 transmissions being the future for opportunities in
20 business.

21 Q. Okay. Would you say it was kind of
22 like a PR type thing?

23 A. Yes.

24 Q. All right. That was, as I recall,

1 late 1998?

2 A. I don't recall exactly when it was.

3 Q. Okay. The first group meeting that
4 you attended at -- at the Batavia plant, was that
5 the meeting in May, approximately May 27th?

6 A. I believe so.

7 Q. Okay. Did you go -- do you remember
8 there was a morning session and an afternoon
9 session?

10 A. I went to the morning session.

11 Q. Okay. Do you remember, did they hand
12 anything out at that time?

13 A. I don't recall.

14 Q. Do you recall, in terms of Ford
15 transitionals, who else might have been there?

16 A. Just pretty much all the Ford
17 employees were invited to come to the meeting. As
18 far as whether who was with me was basically my
19 peers and some of the others guys that were on day
20 shift at the time.

21 Q. Okay. Do you remember specifically
22 who?

23 A. Rick Ervin, Mike Steward, Dennis
24 Baker. Some of the -- some of the other guys

1 that -- group leaders like John Mosely, Bill
2 DeVito.

3 Q. Do you remember who spoke at that
4 meeting?

5 A. There were several people that spoke.
6 Karl Kehr, Tony DeShaw, guy by the name of Charlie.
7 I can't remember his last name.

8 Q. Charlie Corbett?

9 A. Yes.

10 Q. Okay. How about Dave Adams?

11 A. I don't recall whether Dave actually
12 spoke at that one or not.

13 Q. Anybody else that comes to mind?

14 A. No.

15 Q. Do you remember the topics that were
16 discussed by any of those individuals?

17 A. Well, they basically -- the topics
18 that I remember were discussed were the -- what the
19 joint venture was about, how was it going to affect
20 the people in the plant, the opportunities for the
21 plant itself, that -- that the plant had been given
22 new life, that there were going to be opportunities
23 for new business, up to a million transmissions a
24 year to be produced in the building, that if we

1 decided to make the transition, that Ford -- we'd
2 basically be mirrored, as far as our benefits, our
3 wages, our overtime packages would be mirrored with
4 Ford and it would continue to grow as Ford did.

5 Q. Okay. Do you remember specifically,
6 did somebody use the term "mirrored" or what was
7 the term, if you recall, that was used?

8 A. I can't recall offhand.

9 Q. Okay. Do you remember who made the
10 statements about Ford?

11 A. I believe it was -- I think it was
12 also Tony DeShaw and Karl Kehr.

13 Q. But you can't remember any specific
14 statements?

15 A. Well, no, not specifics, other than
16 saying they -- you know, that if the joint
17 venture -- if you join with ZF, you'll basically be
18 treated -- it would basically be -- not mirrored,
19 but it would be the same as if you were working for
20 Ford.

21 The retirement package would be
22 supplemented. If you got vested with Ford and ZF
23 both, you would have the same investment -- or same
24 type of retirement program that you would have as

1 if you stayed with Ford.

2 Q. Okay. So the retirement package would
3 be the same --

4 A. Yes.

5 Q. -- or basically the same as --

6 A. Well, your retirement package with --
7 you know, your overtime, your vacations, your
8 employment, as far as your AIPs, you'd be available
9 for AIPs, that your pay would stay the same. And
10 the merit raises would be opportunities for you to
11 have as if you were with Ford Motor Company.

12 Q. Now, when you talk about AIP, I mean,
13 that couldn't stay the same because Ford didn't
14 have AIP?

15 A. They had a profit sharing --

16 Q. Okay.

17 A. -- which they basically explained as
18 an AIP, an Annual Incentive Plan, was going to be
19 ZF's answer to the profit sharing.

20 Q. Okay. I think you told me you don't
21 recall getting the -- what we've called the gray
22 brochure, Exhibit Number 2 at this first meeting?

23 A. Right.

24 Q. Okay. Do you remember anything else

1 about this first meeting?

2 A. No.

3 Q. Did you decide to join Batavia at that
4 point?

5 A. No.

6 Q. Why not?

7 A. I was interviewing for several
8 superintendent jobs within Ford Motor Company. And
9 at that particular time, there was discussions
10 about four people being moved to different areas in
11 different plants and I was listening to the
12 different opportunities that -- that were coming to
13 me. I was keeping an open mind about what I wanted
14 to do.

15 Q. Okay. After that meeting, I think you
16 told me you attended a second meeting?

17 A. I believe there was a second, smaller
18 meeting that -- you know, talked about -- continued
19 talking about the -- how ZF employees and Ford
20 transition employees -- you know, the need for
21 senior people -- or not senior people, but
22 experienced people to be having the opportunity to
23 go to ZF and the discussions about what the
24 benefits would be, the -- the opportunities would

1 be, things like that.

2 Q. Do you remember who was at this second
3 meeting?

4 A. Pretty sure Tony DeShaw and Karl Kehr.
5 And seems like there was another guy and I can't
6 remember his name.

7 Q. Okay. Now, Mr. Vories had
8 indicated -- and I'm not sure what meeting he was
9 at, but he referred to it as the first meeting,
10 that there were a lot of issues that he felt
11 weren't or couldn't be answered by Mr. Kehr or Mr.
12 DeShaw at that first meeting. Did you leave that
13 meeting with that impression?

14 A. Yes. And I believe the second meeting
15 was a follow-up with Ford salaried personnel that
16 came in to answer some of the issues and questions.
17 Seems like Izu or somebody like that was one of the
18 guy's name. I can't remember his name offhand.

19 Q. What do you think it was?

20 A. I -- I don't know.

21 Q. Don't remember?

22 A. No, no, I don't recall.

23 Q. Well, from your point of view, then,
24 what were the open questions or issues that needed

1 to be answered from that first meeting?

2 A. One, I wanted to understand a little
3 bit more about what ZF was --

4 Q. Okay.

5 A. -- and who they were.

6 Q. Okay.

7 A. What effect did -- what was the joint
8 venture going to mean to the Ford Motor Company?

9 Q. Okay.

10 A. What was the CVT transmission? What
11 was it? What was it going to go into? What kind
12 of products was Ford looking at? Down the future,
13 what was the opportunities going to be for me? How
14 was it -- pay scales, how was the benefit packages?
15 How were the conditions of employment going to
16 change for me personally --

17 Q. Okay.

18 A. -- or if they were at all?

19 Q. Okay. And these were all open issues
20 going into this second meeting?

21 A. Yes.

22 Q. Okay. And Tony DeShaw, Karl Kehr and
23 maybe somebody from Ford --

24 A. Yeah.

1 Q. -- you think was at that --

2 A. There was two guys from Ford that were
3 there.

4 Q. I'm talking the second meeting now.

5 A. Second, yes. There were several --
6 several of the Ford salaried personnel, there was
7 some people there.

8 Q. But you just don't remember who it
9 was?

10 A. No.

11 Q. At the second meeting, do you remember
12 what Mr. DeShaw or Mr. Kehr indicated?

13 A. No, not offhand, other than basically
14 that the joint venture, the terms and conditions of
15 employment basically were going to stay -- I want
16 to say everything was going to be mirrored with
17 Ford was the impression that I took from there.
18 That if you were with ZF employees, that if you
19 made the transition, you would be treated as if you
20 were Ford because Ford was still going to be
21 actively involved in what was going on in that
22 business because of the 49 percent that they had --
23 had bought into.

24 Q. But nobody used the term "mirror" or

1 "mirrored," did they?

2 A. I don't think they used the verbiage
3 "mirror," but, I mean, it was -- you would be
4 treated as if you were a Ford employee and that you
5 would be given the same benefits, same salary
6 packages as if you were a Ford employee.

7 Q. And who made that statement?

8 A. Salaried personnel from Ford.

9 Q. Okay. Now, at this second meeting,
10 did you receive Exhibit 2 at that point in time?

11 A. Yes, yes.

12 Q. Did you review that document at that
13 point?

14 A. Yes.

15 Q. Okay. And as you were there at the
16 meeting, you reviewed the document?

17 A. I looked at it while I was there, but
18 I read it more of when I got -- I went into more
19 detail after I got out of the meeting.

20 Q. Okay.

21 A. I just casually glanced at it during
22 the meeting and when I got home, I sat down and
23 looked at it.

24 Q. Okay. I've heard from various

1 individuals that there were also discussions
2 with -- kind of amongst the Ford transitionals
3 about what the future was going to hold and kind of
4 what the deal was. Did you have some more
5 discussions with other Ford transitionals?

6 A. Yes.

7 Q. Can you tell me who, for example?

8 A. Rick Williams, Jerry Priest. They
9 were also --

10 Q. Okay.

11 A. -- at the meeting that we attended.

12 Q. Do you remember the nature of your
13 discussions with Rick?

14 A. I went into great details with Rick.
15 I wanted to have some more details. What are the
16 opportunities going to be? How he felt, as far as
17 making the transition 'cause he was one of the very
18 first people to make the transition.

19 You know, how did -- he felt that it
20 was going to affect his family in the future. What
21 was going to be the -- the opportunities going down
22 the road with CVT? What was going to be the life
23 of the CD4E? What did he know about the business
24 as a whole? The same way with Jerry Priest. And I

1 asked them why they made the transition.

2 Q. Their personal opinion was important
3 to you?

4 A. Yes.

5 Q. Okay. Now, these meetings with Rick
6 and Jerry in relation to the first meeting and the
7 second meeting, can you timeline those for me?

8 A. Oh, there was just ongoing meetings
9 with them. I mean, you know, just general
10 conversation out on the floor.

11 Q. Okay.

12 A. There wasn't -- there wasn't specific
13 meetings where I had set an appointment to go in
14 and sit down and discuss these things. It was
15 basically just out on the floor, Hey, what do you
16 think about this? What's your feelings towards it?

17 Q. Okay.

18 A. Why did you do this?

19 Q. Okay.

20 A. If I make the transition -- you know,
21 how will I fit into the big picture?

22 Q. Did you discuss with Rick your
23 retirement in particular to any degree of detail?

24 A. I asked him about the formulas that

1 were going to be used and how the benefit package
2 or the retirement package was going to be generated
3 or -- you know, what was the expected outcome of it
4 if I had 10 years with them because I was expecting
5 to work at least another 10 to 12 years.

6 Q. Okay.

7 A. And -- you know, in that -- he had a
8 formula set up on his computer that basically will
9 tell you, okay. Here's how much you would receive.
10 This is how much you would -- if you stayed at
11 Ford, based on if the -- if you were in the
12 contributory retirement, what you expected the
13 retirement to be, yes.

14 Q. Okay. Do you remember when you did
15 those calculations with Rick?

16 A. No, I don't recall.

17 Q. Okay. Can you relate it all to,
18 again, the first or second meeting?

19 A. Oh, I think it was after that.

20 Q. Okay. And you say "after that," after
21 in the sense, then -- after both of those meetings?

22 A. Yes.

23 Q. Okay.

24 A. It was probably in the summer.

1 Q. Okay. And I don't know that I asked
2 it, but for clarification, the second meeting, was
3 that about a week after those May 27th meetings?

4 A. You know what? I don't recall offhand
5 exactly when they were.

6 Q. Okay.

7 A. They were follow-up meetings is --
8 from my recall, is that after the first meeting
9 that we had, there was a lot of issues and a lot of
10 questions. So then there was a follow-up meeting
11 later on.

12 Q. Okay.

13 A. And it seems like it was several weeks
14 later. I -- I don't recall exactly.

15 Q. Do you remember the nature of your
16 discussions with Mr. Priest?

17 A. Same as they were with Mr. Williams.

18 Q. Okay. And would those have been the
19 same as -- as with other Ford transitionals?

20 A. Sure.

21 Q. Okay. And I understand that probably
22 none of the other Ford transitionals had -- had
23 done the calculation on the retirement as Mr.
24 Williams did, but other than that, they would have

1 been the same general conversations you had with
2 other Ford transitionals?

3 A. I believe so.

4 Q. Okay. Do you remember kind of at what
5 point in time you decided to make the jump?

6 A. It was probably more towards
7 September.

8 Q. Okay. A lot of folks had offers made
9 to them in late May or early June, as I recall.

10 A. Yes.

11 Q. Did you have an offer made to you
12 during that time period?

13 A. No.

14 Q. But apparently you hadn't made up your
15 mind during that time period as well?

16 A. Correct.

17 Q. Is there some -- some event or
18 something that happened that -- that helped you
19 make that decision?

20 A. Well, there were several things that
21 helped me make that decision. And one was the fact
22 that Jacque Nasser was running Ford Motor Company
23 at that particular time. And the general feeling
24 was that Jacque was trying to drive the price of

1 stock up for shareholder returns. And by doing
2 that, you had to have your price earnings ratios in
3 line with what Wall Street was asking.

4 So the health of Ford Motor Company as
5 Jacque Nasser felt was to get Ford to where they
6 wanted to be for the return on investments for
7 their investors was that you had to reduce the PE
8 ratios. And to do that, you had to reduce
9 capitalization.

10 And I felt that in the long run, that
11 ZF would be the -- the supplier of transmissions
12 for Ford Motor Company, in my mind. And it also --
13 because of going back and reviewing information
14 about ZF, they were a major player in the supply
15 base for automotive and also power train throughout
16 the world.

17 Q. Okay.

18 A. So the opportunities at ZF was -- I
19 saw ZF as being the transmission producer
20 throughout the world.

21 Q. Okay.

22 A. And so then I looked at CVT
23 transmissions, Continuous Variable Transmission,
24 and I thought that was the wave of the future

1 because under the laws and regulations or the CAFE
2 regulations, Ford was looking at how to reduce or
3 increase gas mileages.

4 So the CVT was going to be a major
5 transmission for that. And looking at the amount
6 of investments of both ZF and Ford was going to
7 make for the future, it looked like a great
8 opportunity.

9 Q. Okay. And this research that you did,
10 for example, on ZF, that was research apparently
11 you did on your own?

12 A. Yes.

13 Q. Okay. And how did you become familiar
14 with the CVT?

15 A. Just by auto magazines --

16 Q. Okay.

17 A. -- having discussions with Rick
18 Williams.

19 Q. Okay. Was there anything else that
20 helped you, again, decide to make that jump other
21 than the opportunities and the CVT and the CAFE
22 issues?

23 A. Well, and by looking at this, I felt
24 like this was a written agreement, that -- that I

1 felt like -- you know, that I had an agreement. I
2 was going to have an agreement with Ford -- I mean
3 with ZF, that I was going to be compensated the
4 same as I would have been with Ford. My benefits
5 would have -- were going to be the same as what
6 they currently were with Ford and I would be
7 making -- I'd be moving into an opportunity where
8 CVT -- I could be promotionally, the opportunities
9 down the road.

10 MR. SIMON: And just for the record,
11 when he said "this," the witness was pointing to
12 Exhibit 2.

13 Q. When you referenced Exhibit 2, you
14 said you -- earlier you indicated you just got home
15 and read that in more detail, right?

16 A. Yes.

17 Q. And I gather from your testimony here
18 today, that you spent a fair amount of time in
19 reviewing this and apparently a lot of other things
20 with respect to ZF and CVT, correct?

21 A. Yes.

22 Q. And you would acknowledge, wouldn't
23 you, that this document, Exhibit 2, specifically
24 says that it's not an employment contract, wouldn't

1 you?

2 A. I don't agree with that.

3 Q. Well, let's take a look at Exhibit

4 2 --

5 A. Okay.

6 Q. -- page 2. Well, what is -- on the

7 way the exhibit's copied, page 2 over in the

8 right-hand column --

9 A. Okay.

10 Q. -- okay? And there's two little black

11 lines down towards the bottom. Do you see those

12 black lines?

13 A. There are several black lines. You

14 talking about right here?

15 Q. Yeah, all right. There we go. And I

16 guess I would direct your attention to the last

17 sentence in that little section, okay, that says,

18 Plan provisions and eligibility do not constitute

19 an employment contract with any individual.

20 A. Okay.

21 Q. You saw that language back in 1999,

22 correct?

23 A. I saw the language.

24 Q. And despite that, your testimony is

1 you still thought you had an employment contract?

2 A. Yes.

3 Q. Okay. And why did you think that?

4 A. Because I felt like this is basically
5 boilerplate type of agreement that was given the
6 same way with the applications that is something
7 that's generally put out on almost all contracts.

8 But I felt that, based on what we had
9 been put down in writing and what we were given, as
10 far as the compensation, benefits and the dental,
11 that this was what we were going to be -- the
12 agreement that I was going into and this is what I
13 felt as -- as from my employment part of what I was
14 going to contribute to ZF, this is what I would
15 receive as compensation.

16 Q. But, again, you've testified you
17 thought it was an employment agreement, right?

18 A. Yes, I did think it was an agreement.

19 Q. And you saw that it said that it
20 specifically wasn't an employment agreement?

21 MR. SIMON: Objection. The document
22 speaks for itself. I mean -- go ahead and answer.

23 Q. You saw that language?

24 A. I read -- I read the document, yes.

1 Q. Okay. And you saw the language where
2 it says that it does not constitute an employment
3 contract with any individual?

4 MR. SIMON: Mr. Hunter, let's read the
5 whole sentence if you're going to refer him back to
6 that. I think --

7 MR. HUNTER: Is that an objection
8 or --

9 MR. SIMON: Yeah, because -- yes, it
10 is an objection.

11 MR. HUNTER: Okay.

12 MR. SIMON: The document --

13 MR. HUNTER: The objection is noted
14 for the record.

15 MR. SIMON: Okay. Now, my -- just for
16 the record, my objection is you're
17 mischaracterizing the evidence. You're
18 mischaracterizing this document that we keep
19 talking about in all these depositions.

20 If you're going to refer him to a line
21 in the document, please quote the sentence
22 accurately. Go ahead and ask your question.

23 Q. Mr. Steward, you see the language that
24 says, Plan provisions and eligibility do not

1 constitute an employment contract with any
2 individual, correct?

3 A. I read that, yes.

4 Q. All right. And is your testimony that
5 you simply discounted that because you viewed that
6 as boilerplate?

7 A. Yes.

8 Q. All right. Simply didn't believe what
9 it said?

10 A. I believed that what was written over
11 here was an agreement.

12 Q. Okay.

13 A. What was written in the other parts of
14 this document was an agreement that I was going to
15 live up to --

16 Q. Okay.

17 A. -- and ZF was -- abide by.

18 Q. Okay. And, again, the language that I
19 just read to you, you simply didn't believe?

20 A. I felt like it was just basically a
21 boilerplate document, as far as the lines that were
22 put in there. And I didn't think, as far as the
23 other things that were put in the writing, were
24 parts that I considered being terms or conditions

1 of employment.

2 Q. So you believed those sections of the
3 agreement and simply chose not to believe that
4 section that I just read to you?

5 MR. SIMON: Objection, argumentative.
6 You can answer.

7 A. Did I not believe it?

8 Q. Mm-hmm.

9 A. Is that what you're asking me? I
10 guess I'm not understanding exactly what you're
11 asking me.

12 Q. Okay. I've read to you certain
13 language in the document about the fact that the
14 document does not constitute an employment
15 contract. Do you remember me reading that to you?

16 A. Yes.

17 Q. Okay. Did you believe or not believe
18 that language that was contained therein?

19 A. I believed that the other parts of the
20 document, such as the competitive compensation, the
21 benefits, the dental, the benefits as far as
22 accidental, tuition, vacations, was what I was
23 accepting as far as -- as far as what I felt was
24 going to be the agreement with ZF and Mike Steward.

1 Q. Okay. And what about this language,
2 again, that I read now a couple times?

3 A. And I understand what you're asking
4 me, but I'm just saying is that this is what I
5 believed to be true.

6 Q. Okay. And what about this language,
7 you didn't believe that to be true?

8 A. I believed -- believed that it was
9 boilerplate that was probably put into every one of
10 the -- well, it is on every one of the offers.

11 Q. Okay. And what did you believe with
12 respect to that language?

13 A. I believed --

14 MR. SIMON: Objection, asked and
15 answered. Go ahead.

16 A. Okay. I believed that this was the
17 agreement that I was signing up to. I felt that
18 this was put in for protection of ZF basically, but
19 this was what was being offered to me.

20 Q. Okay. Now, you'll see in that same
21 section and the sentence before where it says,
22 Plans described here are subject to change. You
23 saw that language back in 1999, correct?

24 A. Yes.

1 Q. Okay.

2 A. But what I consider plans is health
3 care, savings plans, 401K, okay? Not competitive
4 salaries, not AIPs, not merit.

5 Q. And why did you not consider those to
6 be subject to change?

7 A. Because competitive compensations are
8 based upon how -- you went into the agreement with
9 the company. The annual incentive plan is
10 basically set up on a formula and the same way with
11 merit raises.

12 Formulas are set up so that it takes
13 the subjectivity out of who gives what to who. As
14 far as the plans, as far as the dental, accidental
15 death, 401Ks -- you know, I can see where they
16 might change 'cause they have with Ford Motor
17 Company.

18 Q. They were always subject to change at
19 Ford, correct?

20 A. They had changed, yes.

21 Q. Okay. Your salary never changed with
22 Ford?

23 A. It got more.

24 Q. So it changed?

1 A. I got increases on a yearly basis.

2 Q. So it changed?

3 A. Yes --

4 Q. The --

5 A. -- positively.

6 Q. Sure, okay. And with respect to
7 profit sharing, that changed at Ford, right?

8 A. Based on the formulas of profitability
9 of Ford Motor Company as a whole, yes.

10 Q. And --

11 A. But the formula as to how I was paid
12 did not change.

13 Q. Okay. But the profit sharing changed?

14 A. The amount of monies that were paid to
15 individuals were subject to change, but not the
16 formulas of what level you were at or what grade
17 level you were on. They were all the same. Just
18 like --

19 Q. Okay.

20 A. -- I believe ZF has got the same
21 formula set up and that's what -- it should be --
22 it's not -- it takes the subjectivity out of it.

23 Q. Okay.

24 A. It basically says that, Hey, here's

1 what you're going into. Here's the percentages
2 based on your level of employment where you're at,
3 as far as -- you know, salary grade levels.

4 Q. Well, you talk about subjectivity and
5 I look at the language in the gray brochure. And
6 all it says is, The merit program is established
7 and the amount will be announced annually. That's
8 what the document says, right?

9 A. Yes.

10 Q. I don't see any objective standards in
11 there whatsoever. Do you?

12 A. As far as in the past what Ford Motor
13 Company has said, here's -- or even Zed-F, here's
14 the percentage that should be given. And that's
15 what you -- based on the profitability of the
16 company.

17 Q. Okay. Well, let's talk about that for
18 a second because what we're talking about right now
19 is the gray brochure that you had in 1999, correct?

20 A. Yes.

21 Q. And all the gray brochure says is the
22 merit increase -- is that a merit program is
23 established and the amount will be announced
24 annually, period. That's all it says, agreed?

1 A. Yes.

2 Q. It doesn't say anything about
3 objectivity, does it?

4 MR. SIMON: Objection.

5 Q. Does it?

6 MR. SIMON: Objection. The document
7 speaks for itself. Go ahead and answer.

8 Q. Doesn't say anything about
9 subjectivity, does it?

10 MR. SIMON: Same objection.

11 A. The document itself says -- no.

12 Q. Doesn't say that you're going to get X
13 percentage on any given year, does it?

14 MR. SIMON: Same objection.

15 A. No.

16 Q. It doesn't say that you're going to
17 get a fixed dollar amount on any given year, does
18 it?

19 MR. SIMON: Mr. Hunter, can I have a
20 continuing objection --

21 MR. HUNTER: Please.

22 MR. SIMON: -- to this line of
23 questioning?

24 A. No, it does not say that.

1 Q. All right.

2 A. The document does not say that.

3 Q. And nobody at any of the meetings
4 said, You're going to have a fixed dollar amount,
5 did they?

6 A. No. They said there would be
7 percentages. There would be a plan put into
8 position that -- be adhered to and be administrated
9 by the management team here at ZF Batavia.

10 Q. And that's all they said as to that
11 issue, correct?

12 A. Yes.

13 Q. Okay.

14 A. But there would be guidelines that
15 went along -- they said there would be guidelines
16 set up and -- and -- in the plan on what
17 percentages would be based upon what level you were
18 at.

19 Q. And the company would at some point in
20 time determine what those percentages and
21 guidelines would be --

22 A. Yes.

23 Q. -- in its discretion?

24 A. Yes.

1 Q. Now, we've talked about -- tried to
2 talk about when you made the decision to come over
3 to Batavia, and I think what you told me, you had
4 continued to do your homework with respect to CVT
5 and ZF. Is there a point in time that Mike Steward
6 said, Okay. I'm going to make the move?

7 A. It was around September.

8 Q. Okay. What happened between now --
9 let's say the last formal meeting, okay, which I
10 think we've been calling the second meeting in
11 September to cause you to change your mind or make
12 up your mind maybe is a better way to --

13 A. Well, I think we stated that earlier.
14 You know, I did come research on ZF. I did some
15 research about what Ford was doing.

16 Q. Okay.

17 A. I did some research about the CVT.

18 Q. Anything else?

19 A. No.

20 Q. Okay. You were then presented
21 apparently an offer in about August?

22 A. I believe that's about correct.

23 Q. August, September, perhaps?

24 A. Yeah, as far as I remember, yes.

1 Q. Okay. And I'm not trying to trick
2 you. Let's mark the next exhibit and do it that
3 way.

4 Mr. Steward, we've handed you what
5 we've marked for identification purposes as Exhibit
6 108. If you would, please, take a moment to go
7 through that.

8 A. Okay.

9 Q. Is that the offer that you were
10 presented by ZF Batavia?

11 A. Yes.

12 Q. Do you remember who gave that to you,
13 because I note for the record that it is unsigned?

14 A. Rick Williams.

15 Q. Okay. Now, I see a date on there that
16 you accepted this on September 30th of 1999?

17 A. Yes.

18 Q. Do you remember, did you sign it the
19 day you received it or did you take it home to
20 think about it, if you recall?

21 A. I don't recall.

22 Q. Do you remember, did Rick come out to
23 the floor?

24 A. Yes.

1 Q. Did you get -- Okay. Rick came out to
2 the floor where you were out working?

3 A. Yes.

4 Q. Was anybody else with Rick?

5 A. No.

6 Q. Did you know that Rick was going to
7 come out --

8 A. Yes.

9 Q. -- and present an offer?

10 A. Yes.

11 Q. How did you know that?

12 A. We had discussions. He asked me if I
13 was -- had made up my mind and I told him yes.

14 Q. Okay. Did you speak with him about
15 what the compensation would be with respect to
16 coming over?

17 A. Compensation? I don't understand what
18 you're asking me, as far as --

19 Q. Anything to do with what you would be
20 paid or receive to come over to Batavia.

21 A. Yes.

22 Q. Do you remember the nature of those
23 discussions?

24 A. Well, I asked him how would my salary

1 be affected and he said it wouldn't. I'd be
2 maintaining the same salary that I had right --
3 currently.

4 Q. Okay.

5 A. And my overtime would stay the same,
6 that my vacation would be the same, that the AIPs
7 and the merits would be the same as if we were with
8 Ford, only based upon the profitability of ZF
9 versus what we had with Ford.

10 Q. Okay. Now, I guess what I'm talking
11 about is, for example, I see in here transition
12 bonus of \$30,500.

13 A. Mm-hmm.

14 Q. Did you discuss that with Rick?

15 A. Yes.

16 Q. Okay. And why were you paid a
17 transition bonus?

18 A. To offset what we were losing for the
19 lease car, for what I was giving up for my lease
20 car for the A Plan.

21 Q. Okay. Did that transition bonus cover
22 anything else?

23 A. Not that I was aware of, no.

24 Q. Well, you see in the second bullet

1 point where it talks about the transition payment?

2 The last sentence says, "This bonus is designed to

3 address any monetary differences between Ford

4 benefits and ZF Batavia's new plan."

5 A. Right.

6 Q. You saw that language?

7 A. Yes.

8 Q. It certainly doesn't say lease car or

9 A Plan, does it?

10 A. It talks about the differences between

11 the Ford benefits and the ZF plan.

12 Q. Okay. And what did that mean to you?

13 MR. SIMON: Objection --

14 A. Just what I told you.

15 MR. SIMON: -- asked and answered. Go

16 ahead.

17 A. Just what I told you.

18 Q. Okay. So you took "monetary

19 differences between Ford benefits and ZF Batavia's

20 new plan" to mean only the lease car and the A

21 Plan?

22 A. Yes.

23 Q. Okay. Have you received that bonus?

24 A. Yes.

1 Q. Okay. What is your current position
2 with the company?

3 A. Lean process manager.

4 Q. Is that a promotion from
5 superintendent or --

6 A. I'm still on the MR roles, but what I
7 was -- after superintendent, we went to one shift
8 and basically what happened is the CD4E
9 transmission, there was a different -- right before
10 the Escape came on board, there was a -- production
11 went down.

12 Q. Okay.

13 A. So when it went down, I went into --
14 as a Ford production system/Batavia Customer
15 Satisfaction System, BCSS coordinator.

16 Q. Okay.

17 A. And that was based on a Ford
18 production system that was being implemented
19 throughout Ford Motor Company and the management
20 team had decided that -- that they wanted to follow
21 suit.

22 Q. Okay. And apparently you came back
23 from customer satisfaction to LPM --

24 A. Yeah.

1 Q. -- the current LPM position?

2 A. Yeah, yeah.

3 Q. You obviously heard Mr. Vories talk
4 about the commitments that have not been followed
5 through by ZF Batavia, and he made various
6 statements about those commitments.

7 Do you have an opinion as to any
8 commitments or representations, whatever you want
9 to call them, that ZF Batavia has not followed
10 through on?

11 A. Well, I think the biggest ones are --
12 one was the overtime payments.

13 Q. Okay.

14 A. Second was the -- what I considered
15 the AIP is not -- when we say subjectivity, being
16 put in the AIPs, the AIPs were supposed to be based
17 on the formula -- based on the formula that I was
18 supposed to receive if the company made a profit,
19 which was stated that we made a five percent over
20 the year improvement, then my -- my profit sharing,
21 compared to what I had, was substantially lower.

22 Q. Okay. All right. So for you the
23 issues --

24 A. And the opportunities to go into CVT.

1 Q. Okay. Have you been denied that
2 opportunity or it's just not there yet?

3 A. No, it's been denied.

4 Q. Okay. And when was it denied?

5 A. I wouldn't say it's actually formally
6 been denied, but I was -- when I had discussions
7 with Ray Pablice about getting into the CVT
8 organization, he said at that time -- particular
9 time there weren't any openings available.

10 What I tried to explain to him is that
11 with the PCSS production system, new programs
12 coming on, that would be right in line with what we
13 were trying to get accomplished and what he was
14 trying to get accomplished. And he said he didn't
15 have the head count at that particular time.

16 Q. Was there a head count available to
17 rate at that point in time, do you know?

18 A. I don't know whether there was or not.
19 I just have to take him for face value for what he
20 said. And I asked him after that about six months
21 later and the same answer came up.

22 Q. Have you had any economic losses
23 because of the fact that you're not currently in
24 CVT?

1 A. I've had current -- I've had economic
2 losses based on the overtime that I would have
3 received on the floor.

4 Q. Okay. And how much have you lost?

5 A. I don't know right offhand.

6 Q. And just so that I understand, what
7 you're saying is you think you would have worked
8 even more overtime had you been in CVT?

9 A. No. What I'm saying is -- based on
10 the CVT? Wait a minute. Let's step back.

11 Q. Sure.

12 A. Ask me again.

13 Q. Okay.

14 A. I'm not sure exactly I understand what
15 you're asking me.

16 Q. Okay. And I want -- please -- you
17 know, stop me if that's an issue.

18 A. Okay.

19 Q. Trying to understand, have you lost
20 any money or what I refer to as economic loss
21 because you're not over in CVT?

22 A. No --

23 Q. Okay.

24 A. -- other than maybe a promotional

1 opportunity where there would be monies involved.

2 Q. Can you identify the promotion that
3 you would have had over there?

4 A. Well, basically a business manager,
5 back to the business manager level.

6 Q. When we talk about the fact that you
7 went and became involved in the customer
8 satisfaction program and you're currently an LPM,
9 your salary, however, has continued to go up every
10 year that you've been with Batavia, right?

11 A. Yes.

12 Q. Now, you started to make the comment
13 before that I think the biggest issue was the
14 overtime payments, in terms of what Batavia -- ZF
15 Batavia has not followed through on, correct?

16 A. No. It's not the biggest issue.
17 There's several issues.

18 Q. Okay. Well, let's talk about those
19 issues. As I understand it currently, you said
20 overtime payments was first mentioned, AIP and then
21 CVT opportunities, which I think --

22 A. Yes.

23 Q. -- we've talked about CVT?

24 A. Yes.

1 Q. All right. Let's talk about overtime.

2 A. Okay.

3 Q. What's the issue with respect to
4 overtime?

5 A. Well, under the Ford guidelines, the
6 promises that were made -- that we'd be paid
7 overtime as if we were in salary ranks of Ford
8 Motor Company and that's been taken away.

9 Q. Okay. And what's the difference
10 and/or what's been taken away?

11 A. Well, as an LPM, you don't get paid
12 overtime unless you're working on the floor in
13 production areas, unless you're covering a group
14 leader or a supervisor. And under the Ford
15 guidelines, we did get paid.

16 Q. Did Ford have LPMs?

17 A. They have manufacturing planning
18 specialists.

19 Q. So they didn't have the LPM position?

20 A. Correct. Well, it's not identified,
21 as -- as far as the verbiage. The verbiage is
22 different, but the levels are the same. The job
23 responsibilities are the same.

24 Q. Well, when you were at Ford and

1 particularly when you were at Batavia or
2 Sharonville, wherever, did Ford during your tenure,
3 use lean processing methodologies with respect to
4 its production philosophies?

5 A. Yes.

6 Q. Universally use those?

7 A. In the last six, seven years, yes.

8 Q. And so they had lean process managers?

9 A. They called them manufacturing
10 planning specialists --

11 Q. Okay.

12 A. -- or a Ford production coordinator
13 who had -- who was responsible for coordinating the
14 activities throughout the plant, through the LPM
15 and superintendents.

16 Q. So if -- if someone had said that Ford
17 operated the Batavia facility on a mass production
18 basis, you would simply say that's inaccurate?

19 A. Restate that so I understand what
20 you're saying.

21 Q. Well, I've had the Batavia philosophy
22 described to me as one of mass production, in a
23 sense, and opposite to lean process methodologies.
24 Would you say that that is inaccurate?

1 A. I still don't understand what you're
2 asking me. If you're asking me if Ford Motor
3 Company has mass productivity -- what's your
4 definition of "mass"? When you're making large
5 amounts of transmissions per year, it's mass.

6 Q. Okay.

7 A. Lean has nothing to do with the amount
8 of transmissions that you produce.

9 Q. I agree. It's a different methodology
10 in terms of minimalization of inventory, scrap --

11 A. Of waste.

12 Q. All of those issues, the seven signs
13 of waste, all of that, correct?

14 A. Exactly.

15 Q. Were those philosophies part of the
16 philosophies over at Ford when Ford was running the
17 Batavia facility?

18 A. Yes.

19 (Off-the-record discussion.)

20 Q. All right. So with respect to
21 overtime, then, you felt that as an LPM at Ford, or
22 at least the equivalent position because that
23 position didn't exist, you would have been paid
24 overtime?

1 A. Yes.

2 Q. Okay. And in terms of that overtime,
3 how did -- we've talked about the casual time. So
4 you --

5 A. Yes.

6 Q. -- still would have had casual time as
7 an LPM?

8 A. Yes.

9 Q. All right. Would the amount of casual
10 time been different than what you've already
11 described to me?

12 A. As an LPM or versus an MPS? In the
13 Ford world, would it -- what are you asking me?

14 Q. Yeah, I guess because the positions
15 just aren't necessarily equivalent. In terms of an
16 LPM at ZF Batavia --

17 A. Yes.

18 Q. -- what do you think you would have
19 been paid if that position existed at Ford? I
20 don't know how else to say that, but --

21 A. The same I would have been if I had
22 been a manufacturing planning specialist.

23 Q. And so you would have had casual time?

24 A. Yes.

1 Q. And how much casual time would you
2 have had?

3 A. 40 minutes a day.

4 Q. Okay. You've given a number to your
5 attorney, in terms of a loss -- an economic loss.
6 That number was \$19,780. What does that number
7 represent?

8 A. What that represents -- it's actually
9 more than that on this one.

10 MR. SIMON: I assume, Mr. Hunter,
11 you're referring to his interrogatory answer?

12 MR. HUNTER: Mm-hmm.

13 MR. SIMON: I've got a different one
14 on my page.

15 Q. Oh, jeez, I'm looking at the wrong
16 number. I am. Sorry about that. I'm sorry.
17 \$23,675.

18 A. That money represents the amount of
19 time that I put in, casual time, anywhere from 10
20 to 11, 12 hours and not paid for. It's my job --
21 if I was doing something at work --

22 Q. Okay.

23 A. -- that required me to be there, I was
24 not paid or wasn't given the compensation in the

1 first several years that we made the transition.
2 Now, since I been back out on the floor as an LPM,
3 I've covered production supervisors and I been paid
4 for it, the overtime.

5 But from 2000 until 2002, the amount
6 of what I consider 10-hour rule, that represents
7 that hour that we didn't get paid 'cause I didn't
8 get paid overtime at that particular time. But if
9 I was paid, it was very little.

10 Q. Okay. I was going to say, were you
11 paid no overtime in 2000?

12 A. Very little.

13 Q. How about 2001?

14 A. Same way. Very little overtime, even
15 though I put at least 10 hours a day in.

16 Q. When you do your time sheets -- and
17 let's talk about 2000 where you were paid. I think
18 your comment was very little overtime. What -- how
19 do you do your time sheets?

20 A. I just put down the amount of time
21 that I'm in the building.

22 Q. All right. So your time sheet, if it
23 reflected that -- well, if it reflected a start
24 time of, let's say -- I don't know, 7:00. That's

1 the time you arrived at the plant?

2 A. No. It's usually I got there a little
3 bit before that, quarter till.

4 Q. All right. So I guess I'm going to
5 ask the question again. What is reflected on your
6 time sheet? I think you said when you get to the
7 plant and now I think what you're telling me is --

8 A. It's normally whatever time -- 7:00
9 is -- seven -- you know, it differs. It changes
10 based on what I'm particularly doing at that
11 particular time. If I get to the office and check
12 my computer, it's usually -- it says -- 7:00 is
13 what time I get there, that's normally what time I
14 put down.

15 Q. Okay. And so -- and the end time --
16 or term I guess would be more appropriate, actual
17 quitting time that's shown on your salary time
18 statements, is that when you leave the building or
19 is that something else?

20 A. Something else. It's usually
21 whenever -- depending on what time we get out of
22 the meetings or -- we usually have a 4:15
23 meeting --

24 Q. Okay.

1 A. -- or right before the 4:15 meeting,
2 we have a -- we download with the group leaders. I
3 usually sit through that. And it depends on --
4 when I leave the building, it's usually 10 or 15
5 minutes later than what I put on my time sheet.

6 Q. And what are you doing in that last 10
7 or 15 minutes?

8 A. Usually leaving. I mean, it's on the
9 way out the door, but I mean -- where our offices
10 are in the building, it's -- it's 10 to 15 minutes
11 to the parking lot.

12 Q. Okay. And do your timecards reflect
13 any deductions for lunch or anything like that?

14 A. No.

15 Q. Okay. And so what's the average
16 lunchtime?

17 A. 15 minutes.

18 Q. Okay. And what was that at Ford?

19 A. Basically the same. I mean, we get --
20 it's 30 minutes is what you -- 30 minutes for
21 lunch.

22 Q. Okay.

23 A. But based on the job that I had and my
24 responsibilities, I usually never took that long.

1 Q. Okay.

2 A. So sometimes you get lunch; sometimes
3 you don't. Sometimes the bear gets you and
4 sometimes you get the bear, you know? But very
5 seldom it was ever 30 minutes.

6 Q. Okay.

7 A. And even the same way today. Well,
8 except for today, maybe.

9 MR. VANWAY: We're taking the full 30.

10 Q. All right.

11 A. You know, day-to-day activities on the
12 floor -- I mean, you pretty much got to -- if you
13 get a chance to go get something to eat, you grab
14 it or you might even get a snack and -- depending
15 on what's going on.

16 Q. Okay. And is that any different than
17 what it was at Ford?

18 A. No --

19 Q. All right.

20 A. -- not for me.

21 Q. All right. And just so that I'm
22 clear, you are currently being paid overtime at ZF
23 Batavia, correct?

24 A. I'm being paid overtime if I cover a

1 production supervisor.

2 Q. Okay. Well, is there, then, still
3 overtime that you feel you're entitled to now that
4 is not being paid?

5 A. I feel that if I put nine -- the 10
6 hour rule is -- is something that under the Ford
7 rule, I would have been paid. I'd have been
8 compensated for.

9 Q. Okay. Can you define for me in a
10 couple sentences, what is the 10-hour rule?

11 A. We're expected to put at least 10
12 hours a day in. That was a directive that came out
13 for salaried personnel.

14 Q. At Ford or Z --

15 A. At ZF.

16 Q. Okay. You're expected to put in a 10
17 hour -- I remember a memo that talked about
18 expected to put in a nine-hour day, but I don't
19 remember a 10-hour day.

20 A. In a management role position, you're
21 expected to put 10 hours a day.

22 Q. Did that come out in writing or --

23 A. No, I don't think it came out in
24 writing, but -- I mean, it was an expectation that

1 was sent down by the management team.

2 Q. Do you remember specifically who said
3 that?

4 A. Well, Len Sennish. I believe in his
5 organization, it's a 12-hour day.

6 Q. I think Mr. Ervin feels the same way.

7 And at the -- if you put in a 10-hour
8 day, what are you paid for?

9 A. Eight hours.

10 Q. Okay. And just so that I'm clear, the
11 LPM position that you currently hold is a
12 management role position?

13 A. Yes.

14 Q. Okay. Any other issues with overtime?

15 A. No. I can't think of -- nothing I can
16 think of at this time.

17 MR. HUNTER: Okay. Well, let's take
18 our lunch break.

19 (Off the record: 12:17 p.m. - 12:52 p.m.)

20 MR. HUNTER: I want the record to
21 reflect that Mr. Crump has joined the deposition
22 this afternoon.

23 BY MR. HUNTER:

24 Q. Mr. Steward, I think we had pretty

1 much beat to death the overtime issue. Is there
2 anything else comes to mind with respect to that?

3 A. Well, the five days of the personal
4 days went to three.

5 Q. Okay. Hang on.

6 A. That's --

7 Q. Any overtime issues, though?

8 A. No.

9 Q. Okay. Now let's talk about other
10 issues with respect to things that Batavia hasn't
11 followed through on.

12 A. Okay. One, we talked about the
13 personal days went from five to three --

14 Q. Okay.

15 A. -- and the bereavement went to three
16 days.

17 Q. Okay. Anything else?

18 A. We talked about the promotional
19 opportunities in CVT, but other than that, no.

20 Q. And the personal days, my recollection
21 is that was a -- lack of a better way to put it, a
22 temporary change that lasted, I think, for about a
23 year?

24 A. I think it lasted about a day -- I

1 mean, about a year, but I don't think it was
2 intended to be temporary. That's not the way the
3 memos came out. It was just basically that this
4 was going to be a change in the policy.

5 Q. Okay. And there was a subsequent
6 change that came out and said --

7 A. We're going back to five days.

8 Q. Okay. And I guess I don't understand
9 your comment about how you didn't think it was
10 temporary or I don't understand what you mean by
11 that.

12 A. Well, the memo didn't say it was going
13 to be temporary.

14 Q. Okay.

15 A. So I would not think that if a memo
16 came out of salaried personnel saying that personal
17 days from five to three, I wouldn't think that as
18 being a temporary situation.

19 Q. Okay. But, in fact, it ultimately
20 turned out to be that way?

21 A. Yes.

22 Q. Did you, for that period where it was
23 reduced from five to three, did you use all of your
24 personal days?

1 A. I believe so.

2 Q. Okay. Did you have need for
3 additional personal days?

4 A. I'm not sure. I don't recall. I
5 don't know if I did or not.

6 Q. So you don't know if you were affected
7 by that change?

8 A. I was affected by the fact that it was
9 changed, the policy was changed. That was the only
10 way I was -- as far as taking additional two days,
11 having personal -- I don't know.

12 Q. Okay. What about the bereavement?

13 A. I wasn't affected by the bereavement.

14 Q. Okay. You'd mentioned in the kind of
15 laundry list of items AIP. And I don't think we
16 spent much time talking about AIP. What's your
17 understanding or issue with respect to AIP?

18 A. Well, I have several issues.

19 Q. Okay.

20 A. One is that I felt there was a formula
21 that was supposed to be used to determine -- based
22 on the profitability of the company and supposedly
23 year over year -- there was a five percent
24 year-over-year improvement in the plant. Return on

1 sales was around five percent improvement.

2 And based on that, then, we met our
3 objectives based on what was said to be the goals
4 of the AIP. And AIP should have been reflected in
5 that.

6 I felt that there was some comments
7 made by Dick Newark that said that the Ford
8 transition people are going to get less of an AIP
9 because they were making too much money and --

10 Q. Okay. Obviously if Dick Newark made
11 such a comment, it was well after the
12 organizational meetings that we talked about
13 earlier?

14 A. Yes.

15 Q. Okay. When you talk about this
16 formula for AIP and the five -- the year-over-year
17 and the five-percent improvement, is that anywhere
18 contained within the gray brochure?

19 A. No, but it was based in here.

20 Q. All right. Well, then, you've got in
21 front of you Exhibit 4?

22 A. Yes.

23 Q. All right. Exhibit 4 was never a
24 handout, was it?

1 A. I think these were very -- these were
2 part of the overheads that were shown to us.

3 Q. Okay.

4 A. Now, we were given handouts from the
5 management team saying what the objectives were for
6 your -- for the AIP objectives.

7 Q. Okay. But, again, that was after the
8 organizational meetings, correct?

9 A. Correct.

10 Q. And, in fact, I think that would have
11 been after you had signed on?

12 A. Correct. Well, except for this part
13 right here. It looks like page 7.

14 Q. All right. You're talking about page
15 7 of Exhibit 4?

16 A. Yes, the annual incentive plan --

17 Q. Okay.

18 A. -- Ford transition, MR bands based on
19 what percentage the target would be, what the
20 maximum would be.

21 Q. Okay. And, in fact, the discussion
22 document, whatever you want to call it, regarding
23 AIP continues on for other pages, correct?

24 A. Yes.

1 Q. I think in Exhibit 4 after that kind
2 of bar graph, what would be, I believe, pages 8 and
3 9, starts, ZF Batavia 1999 objectives. Those two
4 pages would relate to the AIP as well?

5 A. Yes.

6 Q. Okay. Did you receive an AIP payment
7 in 2001 for year 2000?

8 A. Yes.

9 Q. Okay. Was there any time you didn't
10 receive an AIP payment?

11 A. No.

12 Q. Okay.

13 A. But the percentages of what I felt was
14 supposed to be given was lower than what the
15 expected -- based on the management teams
16 receiving -- from what we were told is that the
17 management team -- when I say "management team,"
18 I'm talking about the SER roles, the managers and
19 directors received full compensation, where ours
20 was put on a prorated basis.

21 Q. You got to help me there with that --

22 A. All right.

23 Q. -- because when you said "management
24 team," I assumed you meant TMT, but apparently

1 that's not the case.

2 A. No, that's the same, yeah. TMT and
3 management, the role -- when I say SCR roles, that
4 could be directors --

5 Q. Right.

6 A. -- or managers.

7 Q. Okay. Which is basically the TMT
8 team?

9 A. Yes.

10 Q. All right. And so -- and I know you
11 already said it, but you lost me. The difference
12 or the issue is what now?

13 A. The issues that I felt were the
14 percentages of what we received versus what the
15 targets were were lower. And in discussions with
16 Dick Newark, they were based on, one, some people
17 didn't get them because of overtime. Some people's
18 merit raises or AIPs were lower because of how much
19 money they were, quote, "making" versus being a
20 transition person versus a new hire from ZF.

21 Q. And is this for every year or is this
22 for one particular year or --

23 A. First two years. Well, the first year
24 in particular because we were just paid for 2002.

1 Q. Okay.

2 A. So it would have been -- actually been
3 for 2001.

4 Q. Which was paid in 2002?

5 A. 2001. It was paid in 2002.

6 Q. Right.

7 A. 2000 was paid in 2001.

8 Q. Right.

9 A. So it was for 2002, 2001 time frame.

10 Q. And in terms of reductions or
11 adjustments for either overtime or what people were
12 paid, what -- what adjustments were made?

13 A. I'm not clear what you're asking me.

14 Q. You said that Mr. Newark indicated
15 that there were adjustments or changes based --

16 A. There were AIPs. People did not get
17 AIPs because of the amount of overtime that they're
18 working.

19 Q. Okay. Did that affect you?

20 A. No.

21 Q. Who did it affect?

22 A. Well, let me say it this way. I don't
23 know if it affected me because I didn't -- as far
24 as the overtime, the actual working of overtime and

1 the compensation based on the job that I had, it
2 was some over -- casual overtime, but as far as
3 what I put down on my time sheet, no, it did not
4 affect me.

5 Q. Okay. Whose AIP payment was affected
6 by --

7 A. First-line supervisors in the
8 maintenance organization, material control
9 organization, people who historically in the plant
10 work a lot of overtime.

11 Q. Do you know any specific individuals
12 or no?

13 A. I don't know offhand. I kind of
14 figure that's a private discussion and if somebody
15 wants to tell you, they'll tell you. And if they
16 don't, I don't go and ask them about their -- how
17 much money they get paid or how much that they make
18 or if they got their bonuses or even how much they
19 got.

20 Q. Okay. The number that we talked about
21 before, I think it was about 22. Since your AIP
22 was paid appropriately, there would be no -- no
23 portion of that number reflects an issue with
24 respect to AIP?

1 A. Yes, there would be a reflection of it
2 of what I felt that I -- the target number was
3 versus what I should have -- what I actually got.

4 Q. So --

5 A. If you go back -- if you go back to
6 this Exhibit Number 4, theoretically in 2002, the
7 target should have been for an MR level \$10,050.

8 Q. Okay.

9 A. And my merit -- I mean, my AIP was
10 somewhere around 2,000 to \$3,000.

11 Q. And I guess I want to be clear. I
12 think you said 2000. That would have been actually
13 1999, that it was paid in 2000?

14 A. No, it would have been 2001 when it
15 would have been paid.

16 Q. All right. So we're talking about --
17 what I don't understand --

18 A. 2002.

19 Q. We talked a little bit before about
20 Exhibit 4 on pages 8 and 9. I see ZF Batavia 1999
21 objectives. It doesn't say 2000 objectives, does
22 it?

23 A. No.

24 Q. Are you saying, then, that the targets

1 and the objectives weren't subject to change?

2 MR. SIMON: Mike, make sure you listen
3 to his question while you're flipping through that.
4 If you want to flip through that to review at all,
5 you can do that, then answer his question.

6 A. Okay. The objectives were not subject
7 to change. As far as delivery cost initiatives,
8 they did not change. Safety, quality, the
9 percentages did not change.

10 Q. Could they have changed?

11 A. Could they have changed? I don't
12 know. I'm not aware if they did. As far as
13 safety, quality, delivery and costs, no, they have
14 not changed.

15 Q. But they certainly could have if the
16 company elected to change those?

17 A. The objectives are basically the
18 guiding principles and it's also the -- the way the
19 business is defined, as -- as being -- of what the
20 objectives would be for the plant and the building.

21 I mean, as part of the -- what do I
22 want to say? -- guiding principles and the plant
23 statement, I guess is the best way to say this,
24 it's not exactly what I want to say, but that's

1 where it was defined as -- as how we're going to
2 run the business.

3 Q. Okay. So --

4 A. Guiding principles, the statement of
5 the intent of ZF Batavia.

6 Q. All right. And so your position is
7 that your AIP payment that was made in March of
8 2000 --

9 A. And 1 --

10 Q. 2001 --

11 A. -- and 2002.

12 Q. -- was insufficient?

13 A. Yes.

14 Q. Okay. And 2002 was insufficient?

15 A. Yes.

16 Q. All right. Any other issues with the
17 AIP?

18 A. No.

19 Q. Okay. As we sit here today, can you
20 tell me how much you think --

21 A. There is. Wait a minute. Let me step
22 back a second. The problem with the AIP was
23 discussions that were had, and it comes from
24 basically Mr. Newark, that the Ford transition

1 people made too much money, that the merit
2 raises -- merit and AIPs would be -- would be
3 different and would be lowered because of the --
4 basically because we made too much money, is what
5 he would say.

6 And he basically, from what I -- the
7 impression that I got was Mr. Newark was pretty
8 much calling the shots on who got what, as far as
9 the AIPs, rather than going by any formulas or --
10 or how they were -- you know, approved was really
11 upon Mr. Newark.

12 Q. You were aware that the company had an
13 AIP formula, correct?

14 A. Yes.

15 Q. And is it your -- what you're telling
16 me is that apparently Dick Newark --

17 A. Disregarded it.

18 Q. -- disregarded that?

19 A. Yes.

20 Q. Why didn't you go to Dave Adams or
21 Karl Kehr or Len Sennish and say, Hey, guys, Dick's
22 not following company policy?

23 A. There was discussions on that.

24 Q. Who did you discuss it with?

1 A. I -- well, I had a discussion with Len
2 and -- you know, basically Len's position was that
3 Dick's the production manager, production director
4 and it's his business.

5 Q. Did you take it any further?

6 A. No.

7 Q. All right. Anything else on AIP?

8 A. No.

9 Q. You would certainly acknowledge that
10 with respect to AIP, there was no specific dollar
11 amount that was guaranteed to you?

12 A. I would agree to that, yes.

13 Q. And certainly no specific percentage
14 that was ever guaranteed to you?

15 A. Well, I don't think anything is
16 guaranteed, but I think that we had an agreement
17 that AIPs would be based upon a percentage and
18 based upon when we go back to this right here, that
19 there would be a system in place, that you just
20 arbitrarily couldn't pull a number from a hat.

21 Since because I like you better than I
22 like Jim or I like you or whoever, I can give you
23 whatever I want. There should be guidelines put
24 into place and there should be plans that are

1 regulated based upon how you run your business.

2 Q. Okay. All right. Mr. Steward,
3 handing you what we've marked for identification
4 purposes as Exhibit 109. Have you ever seen that
5 document before?

6 A. Yes.

7 Q. And I direct your attention to the
8 second page. It appears to have your signature
9 there three times on that page?

10 A. Yes.

11 Q. Is that, in fact, your signature?

12 A. Yes.

13 Q. Did you read the document before you
14 signed it?

15 A. Yes.

16 Q. Do you feel you understood the
17 document at the time that you signed it?

18 A. Yes.

19 Q. And we're done with that one. With
20 respect to merit increases, you have always
21 received merit increases at ZF Batavia?

22 A. Yes.

23 Q. And I don't know if we talked about
24 it, but I guess I want to clarify it. Do you have

1 any issue with your merit increases other than what
2 you relayed about apparently some comments from Mr.
3 Newark?

4 A. I think the concern I had with merit
5 raises is that -- just what we said about the
6 comment from Mr. Newark is -- is really a major
7 concern to me. As far as an issue with the merit
8 system, I think it can be -- you know, probably be
9 handled in a -- by more of an appropriate -- coming
10 from salaried personnel, based on putting controls
11 in place to where -- that somebody just couldn't
12 arbitrarily come up and say, I give you this much
13 money based on I like you or I don't like you.

14 Q. Do you think it's appropriate to base
15 merit increases based upon individual merit?

16 A. I think it should be based upon your
17 performance from the prior year.

18 Q. For the individual?

19 A. Yes.

20 Q. Okay. So if I understand your
21 question -- your comment, I think what you're
22 telling me is it is appropriate to base upon --
23 base a merit increase upon individual performance,
24 but certainly not a personal like or dislike or

1 something like that?

2 A. Yes.

3 Q. Okay. And do you feel that your merit
4 increases have been affected based upon some
5 personal animus from Mr. Newark or somebody else?

6 A. Yes. I think the Ford transition
7 employees -- the comment's been made many, many,
8 many times that we make too much money, and that
9 the merit raises and the AIPs would be
10 proportionately different because of the amount of
11 monies we make versus what the ZF new hires coming
12 in at.

13 And that is not a totally true
14 statement because the new business managers coming
15 in are coming in at a much higher level of pay than
16 what the current business managers are making with
17 Ford transition people.

18 Q. Okay. The -- if you're working the
19 same job as somebody else and there is an AIP
20 payment for that position, do you think it's
21 appropriate or within the company's discretion to
22 pay the same actual dollars, in terms of an AIP
23 payment for the same work?

24 A. I think that what you have to look at

1 is -- is the objectives of each individual, what
2 they were given from the prior -- in your
3 performance reviews and what the -- what your boss
4 set your expectations for the coming-up year. And
5 if you meet those or exceed those, then your merit
6 raise should be based on -- or AIP and your merit
7 raises should be based upon the targets that were
8 set forth in the formulas.

9 Q. Now wait a minute. I thought I told
10 me before AIP shouldn't be performance based, in
11 terms of individuals?

12 A. It's based on the company. I'm saying
13 that based upon the performance expectations that
14 you were given and objectives that you were given
15 and if you reach your objectives, based on the
16 company's goals and also your personal goals, then
17 you should either get the target number or exceed
18 that target number.

19 Q. And if you don't?

20 A. Then it should be proportionate upon
21 how you're rated by your supervisor.

22 Q. So there is a personal component to
23 AIP?

24 A. There is a -- as far as the objectives

1 that are set forth that you're given on a yearly
2 basis, based on your personnel files, it could be
3 different.

4 Q. Okay.

5 A. But as far as the percentage and the
6 formulas, the way they're set up, no. They're not
7 different.

8 Q. With respect to your salary, certainly
9 you've always received your salary while you were
10 at Batavia?

11 A. Yes.

12 Q. Never been docked to the best of your
13 knowledge?

14 A. No.

15 Q. Anybody ever come to you and said,
16 Hey, Mike, there's a problem with your time sheets
17 or anything related to your time sheets?

18 A. No.

19 MR. HUNTER: Well, I will turn the
20 floor over to Mr. VanWay. And I see the hour is
21 getting a little bit late here.

22 (1:15 p.m.)

23 EXAMINATION

24 BY MR. VANWAY:

1 Q. Mr. Steward, good afternoon. I'm Jeff
2 VanWay. I represent Ford in this case. I have
3 some questions for you. I don't think I have as
4 many as Mr. Hunter did. I think he's covered a lot
5 of the areas that I would have covered, so I'll try
6 not to repeat those areas.

7 The transition bonus that you received
8 when you went over to ZF Batavia, that was larger
9 than the transition bonus that most other
10 transitional employees received, wasn't it?

11 A. I don't -- I don't know.

12 Q. Were you given -- were you ever told
13 that yours was larger than others?

14 A. No. I -- bonuses, salaries,
15 transition monies, I always felt that is a private
16 situation for each individual and I didn't think
17 it's any of my business to be asking people what
18 they made or what they didn't make.

19 Q. Okay. But -- well, I understand that,
20 but I thought you just testified earlier that they
21 were hiring new people in at higher rates than what
22 you were making?

23 A. Currently they are.

24 Q. And I guess how do you know that if

1 you --

2 A. Just scuttlebutt, just hearsay.

3 Q. Okay. So you don't know that?

4 A. No.

5 Q. It's just kind of plant rumor?

6 A. Yes.

7 Q. Now, you understood when you accepted
8 employment with ZF Batavia that you were going to
9 be working for the joint venture, right?

10 A. Correct.

11 Q. You wouldn't be working for Ford
12 anymore?

13 A. Correct, but Ford would have an
14 influence on what was going on in the building.

15 Q. Right. They were a 49 percent
16 shareholder, right?

17 A. Yes.

18 Q. And that's what you expected the
19 influence to be, right --

20 A. Yes.

21 Q. -- through their 49 percent?

22 A. Yes.

23 Q. Okay. And you understood that it was
24 going to be the joint venture that would set the

1 terms and conditions of your employment, right?

2 A. Yes.

3 Q. Now, at the time you had conversations
4 with Rick Williams and Jerry Priest and talked to
5 them about how they felt about making the
6 transition, et cetera, they'd already signed on
7 with ZF Batavia at that time, hadn't they?

8 A. Yes.

9 Q. You testified that one of the factors
10 in making your decision was that Jacque Nasser was
11 running Ford. Am I right in taking that to mean
12 that you thought it was kind of a good time to get
13 out Ford --

14 A. No.

15 Q. -- to get out of Ford because of the
16 cost cutting?

17 A. No, that's not what I said.

18 Q. Okay. And that's what I'm trying to
19 understand.

20 A. Okay. What I was saying is that I
21 felt that with the transition -- let me step back.
22 What I meant by that is that Jacque Nasser was
23 running the company, was trying to improve return
24 on investments for stockholders.

1 I felt that in the future, that
2 transmission business potentially could have been
3 joint ventured with ZF or some other company
4 because, as Jacques was trying to improve the
5 price-earnings ratio, to do that you have to reduce
6 the capitalization.

7 Take a plant like Batavia. There's
8 probably \$100 million of capitalization in that
9 plant. To satisfy what Wall Street was looking
10 for, to drive the -- the investor-shareholder
11 improvements and -- and make more profitability for
12 Ford Motor Company, I felt that in the future, Ford
13 would become more of a service-oriented type
14 business and that manufacturing, such as Vistion,
15 now most of those plants have been spun off.

16 I thought the transmission business
17 potentially could have been spun off the same way
18 as it had been at Batavia. And so there -- I
19 looked at it as saying this could be the ground
20 floor of a good opportunity to get in with ZF, as
21 well as -- you know, what was going on in the -- in
22 the business.

23 Q. Okay. So you thought there might be
24 in the future either other joint ventures or just

1 the transmission business itself was --

2 A. Yes.

3 Q. -- outsourced?

4 A. Yes.

5 Q. Okay.

6 A. I figured -- quite honestly, I thought
7 Sharonville would be in full going with ZF, and as
8 far as Batavia, Sharonville would both come under
9 the ZF eventually.

10 Q. You testified that you were in the
11 process of exploring opportunities at other Ford
12 locations.

13 A. Yes.

14 Q. Did you get any offers from any
15 other --

16 A. Yes.

17 Q. Where did you get an offer?

18 A. Kansas City.

19 Q. Anywhere else?

20 A. VanDyke.

21 Q. Is VanDyke and --

22 A. Transmission.

23 Q. -- Kansas City the same thing?

24 A. No. Kansas City is an assembly plant;

1 VanDyke is a transmission business.

2 Q. Okay. So you got two offers?

3 A. Yes.

4 Q. Did you interview over at Sharonville
5 at all?

6 A. No.

7 Q. Did you express an interest in going
8 to --

9 A. Yes.

10 Q. -- Sharonville? Then --

11 A. Well, yes, I did because I came from
12 Sharonville. I had been promoted from
13 Sharonville --

14 Q. Right.

15 A. -- and I was told that I couldn't go
16 back.

17 Q. And who told you that?

18 A. Mike Warden --

19 Q. Okay.

20 A. -- and also salary personnel from
21 Sharonville.

22 Q. And do you know at the time they told
23 you that, were there openings at Sharonville?

24 A. Yes, there was.

1 Q. Were there openings for which you were
2 qualified?

3 A. Yes, there was.

4 Q. And did you explain that to
5 Mr. Warden?

6 A. Yes, I did.

7 Q. And what did he say?

8 A. Sharonville can do whatever they want.

9 Q. So --

10 A. And at that particular time, it was in
11 the six-month grace period that we weren't allowed
12 to move out of the building.

13 Q. Okay. So was it your understanding
14 that you weren't allowed to go to Sharonville
15 because of this six-month --

16 A. Yes.

17 Q. -- freeze, if you will?

18 A. Yes, yes.

19 Q. He didn't say there were any other
20 reasons --

21 A. No.

22 Q. -- you couldn't go to Sharonville?

23 After the six-month freeze was up, did you express
24 an interest in going to Sharonville?

1 A. Yes.

2 Q. And who did you talk to about that?

3 A. Make Warden and also Pat Popalow at
4 Sharonville.

5 Q. Okay. And what did they say?

6 A. That the job -- said basically been
7 filled.

8 Q. Okay. And do you know at the time
9 they told you that, had the jobs been filled?

10 A. Yes.

11 Q. Okay. Now, Exhibit 2, which I know
12 you testified quite a bit about, you took this to
13 be a summary of the benefits at ZF Batavia, right?

14 A. I guess when you say "benefits" --

15 Q. Well, let me ask you it this way. You
16 didn't understand that this was a detailed list of
17 each and every provision that applied to each and
18 every benefit, did you?

19 A. I didn't think -- I didn't take it as
20 being a detailed explanation, but I felt that this
21 was an agreement that I was getting into, that this
22 is the outline of how it was going to be handled,
23 yes.

24 Q. Okay. So it was an outline of the

1 benefits at Batavia, at least the benefits set
2 forth --

3 A. I felt that this was the agreement
4 that I was signing up for.

5 Q. Okay. But, I mean, you -- you thought
6 there was more to some of these than just what you
7 saw, right?

8 A. Not really, no.

9 Q. No? I mean, you would agree with me
10 that some of the benefits here are not spelled out
11 in great detail?

12 A. No, I wouldn't agree with that. I
13 mean, they're pretty basic, as far as what the
14 expectations of life insurance, accidental health
15 insurance, disability, vacation, savings plan,
16 dental and health care benefits, of what it was
17 going to cost me. I thought it was pretty well
18 spelled out.

19 Q. Okay. Well, let's look, for example,
20 under leaves in the far-right column here. It says
21 family leave.

22 A. Okay.

23 Q. It says there, the serious health
24 condition of either the employee or certain family

1 members may allow the employee to a family leave.
2 It doesn't spell out who those other certain family
3 members are?

4 A. I think that's family -- FMLA pretty
5 much comes under government regulations.

6 Q. Okay. Did you think that it was going
7 to be whatever the FMLA said or that it was going
8 to be whatever the company's FMLA policy said?

9 A. Well, I thought it was FMLA, the act
10 of 1993 that was put into place by the government.

11 Q. Okay. So you didn't think that
12 there'd be an FMLA policy?

13 A. No. I thought it would come under the
14 guidelines of government regulations.

15 Q. Now, with respect to vacation, was it
16 your understanding that you'd be able to schedule a
17 vacation anytime you wanted to?

18 A. No.

19 Q. There's nothing here under vacation
20 that talks about how you schedule vacation, is --

21 A. Well, past practice has always been
22 that -- you know, you sit down the first part of
23 the year and you do it a year in advance so that
24 there's no conflicts and it can be scheduled so

1 that the appropriate coverage can be handled.

2 Q. So you had an expectation, then, that
3 past practice would be incorporated into the
4 benefits described here in Exhibit 2?

5 A. No, just on the vacation time.

6 Q. Just on vacation? Well, what about
7 personal or sick days, it doesn't appear that
8 there's a detailed procedure as to how you go about
9 scheduling a personal or sick day. What was your
10 understanding as to how that was going to operate?

11 A. I figured it was coming under the --
12 how your -- your -- the guy that you have to -- or
13 guy or lady, whoever you're working for, would
14 basically help you understand what you needed to
15 do, how to schedule it.

16 Q. Okay. So there was something that was
17 unanswered by this that --

18 A. Well, no. In the past -- no. In the
19 past practice with Ford, if you were sick, you were
20 sick. If you had something coming up, you would
21 schedule it in advance. I mean, as far as being --
22 I mean, as far as you get up to five days of being
23 used for sick or personal, for house closings, I
24 mean, that could be scheduled. I mean, I don't see

1 what you're asking me, as far as the policy.

2 Q. Well, I think you've answered it. I
3 mean, I think what you said was that with respect
4 to personal and sick, also you kind of had this
5 understanding based on past practice as to how this
6 would work. Is that your understanding or --

7 A. Well, what I'm saying is that this
8 tells me right here by looking at this document
9 that my sick days or five days of personal or sick
10 days -- up to five days could be used for being
11 sick or for such things as closing the house cares.
12 I mean, it pretty well tells you what it's allowed
13 to be used for, as long as it's approved by your
14 supervisor.

15 Q. Do you know, is that -- do you have to
16 ask in advance?

17 A. No, not necessarily. How do you know
18 you're going to be sick?

19 Q. Are there any instances you have to
20 ask in advance?

21 A. No.

22 Q. If, for example --

23 A. I mean --

24 Q. -- you were going to use it for a

1 house closing, would you --

2 A. When you say by approving in
3 advance -- I mean, if you know that you're going to
4 close on the house -- I mean, I'm sure that you'd
5 sit down with your supervisor and say, Look, I'm
6 going to be off this particular day. Is there
7 going to be an issue at Ford or should I have it
8 rescheduled?

9 Q. And that's the way things had worked
10 at Ford?

11 A. Yes.

12 Q. And you expected them to continue to
13 work --

14 A. Yes.

15 Q. -- that way? Under salary at the top
16 left-hand column of this same page, it says, Base
17 salary starting at your current Ford salary. I'll
18 submit to you there's nothing in the document that
19 says what your salary would be in future years.
20 You'd agree with me, wouldn't you, that there's
21 nothing in the document that says what your salary
22 would be in future years?

23 A. Yes.

24 Q. The only commitment here was that your

1 starting salary would be at your current Ford
2 salary?

3 A. Yes.

4 Q. Now, I believe that you testified that
5 it was your understanding that some of the things
6 listed in Exhibit 2 were subject to change and some
7 were not; is that correct?

8 A. It's correct to say that -- that in
9 the summary plan, 401Ks, accidental, health, life
10 insurance benefits at Ford Motor Company has
11 historically changed or could change. But usually
12 there's discussions on why they need to be changed.
13 There's up-front discussions on why -- where we're
14 headed with the company, but they have changed over
15 the 20 years that I been with Ford Motor Company.

16 Q. Okay. And you took your understanding
17 as to what was subject to change and what wasn't
18 based on what had happened while you had been with
19 Ford?

20 A. Yes.

21 Q. Okay. And things like health
22 insurance, you recognized that was subject to
23 change?

24 A. Yes.

1 Q. And, in fact, if ZF Batavia had
2 decided after a year that we're not going to offer
3 health insurance to salaried employees anymore, is
4 that a change you believe that they could have
5 made?

6 A. No.

7 Q. It would not be within their rights --

8 A. No.

9 Q. -- to make that --

10 A. No, no.

11 Q. They were limited as to what changes
12 in health insurance they could make?

13 A. I think what they would be limited in
14 is -- is what was identified here as being
15 opportunity -- I mean, here's what our benefit
16 package is going to look like. As far as
17 out-of-pocket monies, it change -- it could change,
18 yes. As far as eliminating it altogether, no.

19 I felt that this was an agreement that
20 our compensation, our benefits, whether it was
21 dental, whether it was medical, whether it's the
22 401K -- 401K could potentially change, but not be
23 eliminated, no.

24 Q. Is there anything in this document

1 that says medical, dental, 401K cannot be
2 eliminated?

3 A. There's nothing in the document that
4 says that, no. But past practice is -- I mean,
5 that's terms of employment or conditions of
6 employment.

7 Q. So because Ford had never eliminated
8 those things, you assumed that ZF Batavia couldn't
9 eliminate them?

10 A. Exactly.

11 Q. Okay. 401K, if ZF Batavia decided
12 we're not going to do a 401K match, do you believe
13 that that's something that's within their rights to
14 do?

15 A. No.

16 Q. And that's because -- and during the
17 time you were with Ford, Ford had never eliminated
18 the 401K --

19 A. Yes.

20 Q. -- match? What if after you left
21 Ford, Ford decided to eliminate the 401K match,
22 would that, then, give ZF Batavia the right to
23 eliminate the 401K?

24 A. No.

1 Q. No? Because what Ford was going -- or
2 what ZF Batavia could do is not tied to what Ford
3 did, right?

4 MR. SIMON: Objection, vague and
5 ambiguous.

6 A. Yes.

7 MR. SIMON: Go ahead and answer.

8 A. Well, what I was going to say is that
9 I don't think that any company has the right to
10 change or just arbitrarily come up and cancel or
11 stop something when you have an agreement. And I
12 felt that this was -- this piece of paper right
13 here, this document is an agreement of what the
14 expectations were for work done and this is what
15 your compensation would be.

16 Q. Okay. While you were with Ford, is it
17 your understanding that Ford had the ability to
18 change your 401K, for example?

19 A. As far as contributions, yes, they did
20 change.

21 Q. Did they have the ability to get rid
22 of the 401K while you were there?

23 A. No.

24 Q. Is that because you had some sort of

1 written agreement with Ford?

2 A. There wasn't any written agreement,
3 but I just felt that was part of the way Ford did
4 their business and I don't think any company
5 throughout the country should be given the
6 opportunity to just arbitrarily come in and cancel.

7 Q. Okay. And I want to make sure I
8 understand you because you said you don't believe
9 they should be given the opportunity and I'm asking
10 you is it -- did you believe Ford had the right to
11 say no more 401K?

12 A. No.

13 Q. Okay. And that's --

14 A. Personal opinion.

15 Q. Just personal opinion, okay. Now, you
16 testified that while you were with Ford, the amount
17 of profit sharing changed, but the formula always
18 stayed the same?

19 A. Correct.

20 Q. Was it your understanding that Ford
21 had the ability to change the formula or that it
22 was locked in and they had to stick with that
23 formula?

24 A. I'm not sure if it was locked in or

1 not, but there was always high-level discussions on
2 what -- if something like that would come down,
3 could change. I hadn't seen a change in 20 years
4 that I been with Ford.

5 Q. "High-level discussions" --

6 A. Senior --

7 Q. -- what do you mean by --

8 A. -- management, the vice president
9 levels and above.

10 Q. Okay. Would you be involved in those
11 discussions?

12 A. No.

13 Q. Okay. These would be discussions
14 where they'd determine what was going to happen?

15 A. Yeah --

16 Q. And then it would be --

17 A. -- for the health of the company.

18 Q. Okay. And then it would be
19 communicated to you?

20 A. Yes.

21 Q. And it would be at that point
22 nonnegotiable, wouldn't it?

23 A. Yes.

24 Q. I noticed in your offer letter, which

1 is Exhibit 108, the start date appears to be
2 scratched out. There's a new one written in.

3 A. Yes.

4 Q. Who made that change, do you know?

5 A. Salary personnel.

6 Q. Was that your decision to change the
7 start date --

8 A. Yes.

9 Q. -- or not? Why did you change the
10 start date?

11 A. Mainly because the profit sharing was
12 coming out that year for Ford and I wanted to get
13 the last that I could, the last -- I wanted to make
14 the transition right at the end of the year.

15 Q. Okay. So you were allowed to
16 change --

17 A. Yes.

18 Q. -- the start date?

19 A. Yes.

20 Q. It wasn't -- in other words, I guess
21 this offer letter wasn't presented to you as a take
22 it or leave it. You had some flexibility to change
23 certain things?

24 A. Exactly.

1 Q. Okay. And I believe you testified,
2 but I just want to make sure that before you had
3 actually received the offer letter, you'd already
4 made up your mind that you were going to accept the
5 offer?

6 A. I had made up my mind to make the
7 transition, yes.

8 Q. Well, and you had told Rick Williams,
9 yeah, I'm going to take the offer and then he
10 called you up there --

11 A. The question I was asked of me is that
12 when I -- when Rick Williams came and gave this to
13 me, had I made up my mind, yes, I had.

14 Q. Okay. And --

15 A. But I had had prior discussions with
16 him about what the package was going to look like.

17 Q. Sure.

18 A. I already knew that -- that there were
19 going to be certain things in the package -- in the
20 offer that I was going to be given.

21 Q. But my question is simply before you
22 ever saw the offer letter, you had already decided
23 that you were going to take it, you were going to
24 go to ZF Batavia, right?

1 A. No, no, because it wasn't completely
2 spelled out, as far as exactly what I was going to
3 get. He had told me that there were going to be
4 certain things that I was going to get, as far as
5 the monies, as far as the opportunities for
6 promotional opportunities. This was all spelled
7 out.

8 So when he came to me and he had some
9 discussions and said, Look, I understand that we're
10 coming up on a time where we need to make a
11 decision. What do you want to do? We got into
12 discussions and he brought the letter out and he
13 said, This is what the letter is going to be, said,
14 Are you willing to make the decision, yes. And I
15 said, yes, I'm willing at this time to make that
16 decision.

17 Q. And then did you sign it right then?

18 A. Yes.

19 Q. Okay. Because I must have
20 misunderstood because I thought you said that
21 before Rick brought the offer letter out to you on
22 the floor, that you had already told him that you
23 had made up your mind?

24 A. We'd already been through this. This

1 was -- I'd already seen this letter. When Rick
2 came out with this letter out on the floor is when
3 I -- I already understood what I was going to get
4 because he had written it down on this, on my
5 tri-fold. He gave me a tri-fold and he gave me
6 what the bonuses were going to be, what this
7 transition money was going to be, both these two
8 areas right here were written down on this
9 particular document that I was given.

10 And by the time I got to this, yes, I
11 had made up my mind --

12 Q. Okay.

13 A. -- based on the information that was
14 put into here.

15 Q. Okay.

16 A. And that's Exhibit 2.

17 Q. The tri-fold that Rick Williams wrote
18 those things on, do you still have that?

19 A. Yes.

20 Q. Has that -- do you know, has that been
21 produced in this case? Have you given that to your
22 lawyers to --

23 A. No.

24 Q. -- to produce in this case?

1 A. No, it wasn't asked.

2 MR. SIMON: We'll certainly produce
3 any documents that Mr. Steward has at his house
4 that relates to the case.

5 MR. VANWAY: Thank you.

6 MR. SIMON: I started to interrupt a
7 second ago. You were both talking over each other
8 a little bit. So make sure, Mike, that you wait
9 for him to finish his question.

10 THE WITNESS: Okay.

11 MR. SIMON: I'm sure Mr. VanWay will
12 do the same.

13 MR. VANWAY: I will. I apologize, Mr.
14 Steward. I try not to do that.

15 BY MR. VANWAY:

16 Q. You testified, Mr. Steward, about CVT
17 opportunities and that I guess Mr. Pablice has told
18 you that you can't be placed in CVT because of head
19 count restrictions?

20 A. Yes.

21 Q. Prior to the time that you accepted
22 employment with ZF Batavia, did anyone ever
23 communicate to you that you would be placed in CVT
24 without regard to any head count restrictions?

1 A. No.

2 Q. Did anyone ever tell you that -- what
3 specific job you would get in CVT?

4 A. No.

5 Q. You testified that you may have lost a
6 promotional opportunity to a business manager
7 level. Was there a specific business manager job
8 available in CVT?

9 A. Just currently there has been, yes.

10 Q. There are currently jobs available?
11 And have you applied for those jobs?

12 A. I wasn't asked to apply. I wasn't
13 given an opportunity --

14 Q. Well, have you on your own --

15 A. -- to enter discussions that -- the
16 interview process -- Ray personally came out and
17 talked to several people and asked them if they
18 were interested in the businesses or going over to
19 CVT.

20 Q. He didn't --

21 A. No.

22 Q. -- ask you --

23 A. He didn't ask me, no.

24 Q. Did you go to him, then, and say, Ray,

1 what about me, I'm interested?

2 A. No, I did not.

3 Q. Or anyone else other than Ray?

4 A. I said something to Dick about it.

5 Q. Dick Newark?

6 A. Yeah. I said, Dick, how come I'm not
7 being considered for this opportunity? And he
8 said, Well, right now, with the things going on in
9 CD4E, we need to make sure that we keep some
10 experienced people over in CD4E and keep the
11 business running.

12 Q. Did you respond when he said that?

13 A. I said, I'd like to have an
14 opportunity in the future. He said, Oh, okay.
15 When something else comes up, we'll give you a --
16 we'll give you a call.

17 Q. Okay. Now, I asked you some of this
18 earlier, but I'm not sure that I understand all of
19 your testimony or my question may not have been
20 clear.

21 If Ford has made any changes since
22 1999, since the time you left the company, would
23 you expect those changes to apply to you?

24 A. I'm not sure they made any changes.

1 Q. I understand. I'm asking if they had,
2 would you expect that those changes would apply to
3 you?

4 A. I would expect -- I don't know. I
5 don't have an answer to that.

6 Q. Well --

7 A. I don't know if it would -- just
8 because Ford arbitrarily changes, I don't know
9 if -- if that means ZF would change --

10 Q. Okay. And you do understand --

11 A. -- if that's what you're asking me.

12 Q. Well, I want to know what your
13 understanding is. Is it your understanding that,
14 based on Exhibit 2 or the other documents that
15 you've referred to as an agreement, is it your
16 understanding that, based on those documents, when
17 Ford makes a change, that change should affect you?

18 MR. SIMON: Objection as to the
19 hypothetical, not relevant. Go ahead and answer.

20 A. Would it affect me, no. But it has --
21 yes, I was because -- say the overtime, the amount
22 of overtime payments, if it's changed at Ford, then
23 the agreement we originally went into and my
24 understanding is that we would basically have the

1 same kind of compensation that Ford would have.

2 Q. Okay. So if the overtime changed for
3 the better --

4 A. Yeah.

5 Q. What if it changed for the worse,
6 should that affect you as well?

7 A. No.

8 Q. No?

9 A. No.

10 Q. Why not?

11 A. I don't think anybody should lose
12 money.

13 Q. Oh, okay. So you should only get the
14 benefit of changes. You shouldn't suffer any
15 changes that would cause you to lose money; is that
16 right?

17 MR. SIMON: Objection, argumentative.

18 A. No.

19 Q. That seems to be what your testimony
20 is. If there are changes that would cause you to
21 lose money, it's your understanding that those
22 changes don't apply to you, then?

23 MR. SIMON: Same objection.

24 A. I don't think anybody should lose

1 money.

2 Q. Okay. So if, for example, Ford
3 eliminated the 401K match, that shouldn't apply to
4 you?

5 A. Correct.

6 Q. Because Ford's a separate company and
7 you don't work for them anymore?

8 A. Right.

9 Q. When you -- in your interrogatory
10 response where you listed a specific number, I
11 think 23,000 and some change as your overtime loss,
12 did you subtract out the 40 minutes a day casual
13 time if you would have worked at Ford?

14 A. Yes.

15 Q. Okay. And is it your claim in this
16 case that you're not required or should not be
17 required to follow ZF Batavia's policies?

18 A. I think I should be required --
19 restate that.

20 Q. Sure.

21 A. Let me make sure I understand what
22 you're saying.

23 Q. Since ZF Batavia has come into
24 existence, it's my understanding that they've put

1 in various policies and procedures that apply to
2 employees in the workforce such as yourself?

3 A. Yes.

4 Q. Is it your claim that you shouldn't be
5 required to follow those policies?

6 MR. SIMON: Objection to the word
7 "should." Vague and ambiguous. Go ahead.

8 Q. Do you believe that you're required to
9 follow those policies?

10 A. Yes.

11 Q. All of them?

12 A. Yes.

13 Q. You testified that you're only paid
14 for eight hours.

15 A. Right.

16 Q. Required to work a 10-hour day, only
17 paid for eight hours. In fact, you're paid salary,
18 aren't you?

19 A. Yes.

20 Q. You're not paid by the hour?

21 A. Correct.

22 Q. Now, when you accepted employment with
23 ZF Batavia, you understood that there was going to
24 be a change in the personal days from what you had

1 received prior at Ford, didn't you?

2 A. Yes.

3 Q. You don't dispute, do you, that ZF
4 Batavia had the right to change those days from
5 something different than what Ford had?

6 A. I felt that I knew going in that
7 that's what the agreement was going to be.

8 Q. You don't --

9 A. This is -- what I went into was -- and
10 this is what I signed up to be, what this exhibit
11 is. This is what my understanding was, that this
12 is what the vacation -- I mean, personal days were
13 going to be and I agreed to that.

14 Q. Okay. And so you don't dispute, then,
15 that ZF Batavia had the right to do something
16 different than what Ford had done with respect to
17 personal days?

18 A. When I -- when this agreement was
19 spelled out, this is what I agreed to.

20 Q. I understand.

21 A. Okay. It has nothing to do with Ford.
22 Things changed between Ford and what ZF is. This
23 is what I accepted when I -- my terms and
24 conditions of employment. This is what I knew I

1 was getting into. This is what I accepted.

2 Q. Right.

3 MR. SIMON: Just for the record, the
4 witness has been pointing to Exhibit 2.

5 Q. Right. And I believe when you pointed
6 to Exhibit 2, you said it has nothing to do with
7 Ford?

8 A. What I said is that this -- what Ford
9 personal days compared to what this is, this is
10 what I accepted.

11 Q. Okay. Now, with respect to the
12 objectives on the AIP, do you still have Exhibit 4
13 in front of you or can you get Exhibit 4 in front
14 of you, please?

15 You'll have to help me a little bit on
16 this, if you would. If you turn to Bates stamp
17 page 08 where it lists the 1999 ZF Batavia
18 objectives. Under quality, the first objective
19 there, achieve warranty costs per unit objective of
20 \$1.66 and \$3.32 at one and three months in service
21 respectfully. That was a specific objective for
22 1999, right?

23 A. Yes.

24 Q. Do you know, was that objective met?

1 A. I believe so.

2 Q. And I assume that that objective
3 wouldn't carry over to future years since it had
4 already been met, right?

5 A. As far as the goal or the objective.

6 Q. Right.

7 A. The quality objectives have always
8 stayed the same, safety, quality, productivity,
9 delivery and costs have been the same.

10 Q. Well, one and three months in service,
11 wouldn't that mean one month after ZF Batavia came
12 into existence?

13 A. No, it's one year after model.

14 Q. One year after model?

15 A. No, it's one month --

16 Q. One month after model?

17 A. -- and three months after model
18 launch.

19 Q. Okay. So it's your understanding,
20 then, that \$1.66 and \$3.32, that's a continuing
21 objective?

22 A. Yes.

23 Q. Okay. Assembly plant pool objective
24 of 250/million. What does that mean?

1 A. Parts per million.

2 Q. And that was the objective in '99?

3 A. Yes.

4 Q. Is it still the objective?

5 A. It's -- you go over your improvements
6 and each year you're expected to have an
7 improvement, so each one of them have been lowered
8 over the last several years.

9 Q. Oh, okay. So the objective changes
10 from --

11 A. Yeah.

12 Q. -- year to year?

13 A. Yes, yes.

14 Q. Implement internal TPM process by end
15 of third quarter. That's already happened, hasn't
16 it?

17 A. Yes.

18 Q. So that's not an objective that still
19 applies, does it?

20 A. No.

21 Q. Okay. And there weren't any slides
22 put up at the May '99 meeting about any future
23 objectives, were there?

24 A. No, other than, again, safety,

1 quality, delivery and costs.

2 Q. Other than pages 8 and 9?

3 A. Yes.

4 Q. Was it your understanding, then, that
5 as you met some of these objectives, like some of
6 the quality objectives that we just spoke about,
7 that there would be new objectives that would come
8 in and take the place of the ones that you had
9 already met?

10 A. Historically at Ford, yes. There's
11 always been year-over-year improvements and
12 expectations changed.

13 Q. Now, I believe it was your testimony
14 that with regard to the AIP, Dick Newark was
15 responsible for that. He disregarded the formula?

16 A. That was my understanding, yes.

17 Q. And you spoke to Len Sennish about it
18 and Len Sennish said basically that's Dick Newark's
19 call?

20 A. Yes.

21 Q. Are you aware of anyone from Ford
22 being involved in the decision to deviate from the
23 AIP formula?

24 A. No.

1 Q. Are you aware of anyone from Ford
2 approving that decision?

3 A. No.

4 Q. And it's your understanding, then,
5 that if an individual employee doesn't meet his or
6 her objectives, it's possible that that employee
7 might not receive an AIP at all?

8 A. Yes.

9 Q. Even though other employees may
10 receive AIPs, if they met their objectives?

11 A. If they met their objectives, yes.

12 Q. Okay. With respect to merit increase,
13 what is your claim there? What is it you believe
14 you should have received that you didn't?

15 A. The merit raise?

16 Q. Yes, sir.

17 A. I felt that the -- the amount of
18 monies that we had on the merit raises -- well,
19 based on the formula, could have been more monies
20 based on my performance from the past year.

21 Q. Which year are we talking about?

22 A. 2002.

23 Q. Okay. How much did you receive in
24 2002?

1 A. Well, actually in 2001, I think I
2 received \$2,000. I think it was approximately
3 \$2,000 for 2001 and 2002 both.

4 Q. Okay. And how much do you believe you
5 should have received for those years?

6 A. My understanding -- cost of living is
7 around three percent.

8 Q. Is it your understanding that the
9 merit increases were going to match whatever the
10 cost of living increases --

11 A. Historically they have not matched,
12 but they've been close to cost of living with Ford
13 Motor Company. And I felt that they would probably
14 be close to the same thing.

15 Q. At any of these employee meetings, did
16 anyone communicate to you that the merit increases
17 were going to keep up with whatever increases --

18 A. No.

19 Q. -- there were in the cost of living?

20 A. No.

21 Q. Bear with me, Mr. Steward. I think I
22 only have one exhibit for you.

23 Mr. Steward, you've been handed what
24 has been marked as Exhibit 110. And I will submit

1 to you, sir, that that's a document that Ford
2 produced in this case. It came from your personnel
3 file at Ford.

4 Do you have any reason to dispute that
5 that's indeed what this document is?

6 A. No.

7 Q. In the lower left-hand side, is that
8 your signature that appears there?

9 A. Yes.

10 Q. You agree with me that you signed this
11 document while you were employed by Ford Motor
12 Company?

13 A. Yes.

14 Q. In the 20-some years that you were
15 with Ford, was there ever a time that Ford didn't
16 give merit increases?

17 A. There was a time when -- yes. I
18 don't -- I -- I can't remember. I don't know if
19 there was or not. I don't -- I don't recall ever
20 not getting a merit raise.

21 Q. Okay. Was it your understanding that
22 while you were with Ford, if the company hit some
23 lean years, that they had the right to say, Sorry.
24 No merit increases this year?

1 A. There was no really set -- profit
2 sharing was always said that it could be a
3 difference.

4 Q. And did that, in fact, happen with
5 profit sharing, that there were years you didn't
6 receive --

7 A. I think in the mid -- in the mid
8 eighties, I think so.

9 Q. Okay. Was it your understanding that
10 you were entitled to receive a merit increase every
11 year, though?

12 A. Yes.

13 Q. Without regard to the performance of
14 the company?

15 A. Yes.

16 Q. So long as you were doing a good
17 job --

18 A. Yes.

19 Q. -- you would get a merit increase?

20 A. Yes.

21 Q. Even if the company wasn't making
22 money?

23 A. Yes.

24 Q. Anyone from Ford ever tell you that's

1 how it was going --

2 A. No.

3 MR. SIMON: Make sure he finishes his
4 question before you answer, make sure you
5 understood his question.

6 THE WITNESS: Okay.

7 MR. SIMON: Don't talk over him.

8 Q. While you were with Ford, did they
9 change the profit sharing to a performance bonus
10 system while you were there?

11 A. I don't understand your question.

12 Q. Okay. Let me try again. My
13 understanding is that for at least most or perhaps
14 all of the time you were with Ford, that they had
15 profit sharing, which was primarily based on the
16 performance of the company?

17 A. Correct.

18 Q. Did they, at any time while you were
19 there, change the profit sharing over to a
20 performance bonus system that was more based on
21 individual performance, as opposed to company-wide
22 performance?

23 A. No, not that I'm aware of.

24 Q. Okay. And the profit sharing, was it

1 specifically company-wide, Ford world-wide
2 performance or was it just the individual location
3 where you were at?

4 A. My understanding was it was North
5 American.

6 Q. Okay. So it didn't matter -- if you
7 were at Batavia, it didn't matter how Batavia was
8 doing. It was Ford North America?

9 A. Yes.

10 Q. And I believe you already testified
11 that while you were with Ford, benefits such as
12 health insurance changed?

13 A. Yes.

14 Q. The amount you paid went up, didn't
15 it?

16 A. Yes.

17 Q. Do you recall Ford ever canceling any
18 vacation days while you worked for the company?

19 A. No.

20 Q. Do you recall them changing the way
21 that they paid overtime, other than increasing the
22 rate while you were with the company?

23 A. No.

24 Q. Do you recall them putting in comp

1 time rather than overtime for certain salaried
2 employees?

3 A. No.

4 Q. Do you ever recall them changing the
5 rate from time and a half or a flat rate to
6 straight time?

7 A. Yes.

8 Q. Do you remember when that change took
9 place?

10 A. No.

11 Q. Did that result in less dollars in
12 your pocket for working overtime?

13 A. I don't believe so, no.

14 Q. Is what they did, they went to a flat
15 rate as opposed to time and a half?

16 A. Correct.

17 Q. And you don't dispute that Ford had
18 the right to do that, do you?

19 A. No.

20 Q. Now, you've testified about several
21 representations, promises, whatever you want to
22 call them that you believe were made to you and
23 have not been kept in this case. And I think I've
24 captured them all. I just want to make sure, okay?

1 What I have in my notes that you
2 testified to are overtime, AIP, CVT opportunities,
3 personal days, bereavement leave and merit
4 increases.

5 A. Yes.

6 Q. Did I miss any? Are there any other
7 promises or representations that you believe were
8 made that haven't been fulfilled?

9 A. No.

10 Q. Would you agree with me that with
11 respect to each of those that I just listed, that
12 it's ZF Batavia that's made the changes?

13 A. I would agree that ZF's made the
14 changes, yes.

15 Q. Are you aware of anyone from Ford
16 being involved in any of those changes?

17 A. I believe Ford is actively involved
18 with all the changes going on.

19 Q. And is that because Ford's a 49
20 percent shareholder in the --

21 A. Yes.

22 Q. -- joint venture?

23 A. I sat in meetings where the executive
24 vice president Roman Kreyger has given direction to

1 the plant and coaching sessions, been part of a
2 board meeting where we've given -- we've outlined
3 what we planned on doing for the next six or eight
4 months.

5 And in each one of those, there's been
6 discussions and coaching and I think they've been
7 actively involved with the board of directors in
8 setting the -- the policies and where the direction
9 of the company is going.

10 And I think they're very much active
11 in -- in how we're doing our business on a
12 day-to-day business. I think George Lindstrom
13 is -- is actively involved with how the plant is
14 being ran, especially if it affects the UAW part of
15 the business.

16 Q. Who is George Lindstrom?

17 A. He's the head of salaried personnel
18 for power train, I believe.

19 Q. Do you have any knowledge that he's
20 involved with salaried employees at the Batavia
21 plant?

22 A. I think he's like a human resource
23 manager for power train.

24 Q. For Ford?

1 A. Yes.

2 Q. Right. And I believe your testimony
3 was that, at least with respect to UAW-represented
4 employees, you believe he's actively involved?

5 A. But he was also part of discussions
6 where one of the employees, a Ford person didn't
7 get his overtime and I believe Mr. Lindstrom was
8 instrumental in getting this man paid.

9 Q. Who was that, do you know?

10 A. Bernie Blankenship.

11 Q. And he was a Ford employee?

12 A. Yes.

13 Q. At the time that there was a dispute
14 over his overtime --

15 A. Yes.

16 Q. -- he was a Ford employee?

17 A. Yes.

18 Q. Are you aware of Mr. Lindstrom being
19 involved in any issues like that with respect to ZF
20 Batavia employees?

21 A. No.

22 Q. Not Ford employees, but Batavia
23 employees?

24 A. No. I think he's -- I think he's

1 active in what's going on -- I think he's close
2 enough to the building that he knows what's going
3 on through the building.

4 Q. And why do you say that?

5 A. 'Cause he's been in the plant several
6 times. He comes into the board of directors
7 meetings, as well as the other three members of the
8 board members. Always discussions out on the
9 floor. There's tours that go on. Presentations
10 were made with BCSS. I sat through meetings at the
11 time with Roman Kreyger, who is now the executive
12 vice president of power train and quality.

13 Q. Mr. Kreyger, does he work for Ford or
14 for ZF Batavia?

15 A. Ford.

16 Q. And is he on the board of directors?

17 A. Currently, no. But he was when the
18 joint venture was first -- he's been promoted to
19 executive vice president at this time.
20 Mr. Shoopick took his place.

21 Q. These meetings that you sat in with
22 Mr. Kreyger, was that while he was on the board of
23 directors?

24 A. Yes.

1 Q. And the meetings that you attended,
2 were they board of directors meetings?

3 A. One of them was, yes.

4 Q. How many meetings are we talking
5 about?

6 A. Well, three that I know of, as far
7 as -- one board of directors meeting and two
8 meetings with the BCSS team room where the -- the
9 managers and also the people that were involved
10 with the BCSS, which was the Ford production
11 system. And he was giving direction on how he
12 wanted the plant to be ran and what his expectation
13 was for his next visit.

14 Q. And at the time of that meeting, was
15 he still on the board of directors?

16 A. Yes.

17 Q. Have you been in any meetings with Mr.
18 Kreyger where he wasn't a part of the board of
19 directors?

20 A. No.

21 Q. And you say he gave direction as to
22 how he wanted the plant to run. What specifically
23 did he say?

24 A. Quality initiatives. He wanted Ford

1 production system implemented. He wanted hourly
2 involvement with decisions being made, the teams to
3 be more developed out on the floor.

4 And I think to answer Mr. Hunter's
5 question about mass manufacturing versus lean
6 manufacturing and Ford being very active in both
7 arenas, as far as when you talk about mass
8 productivity, you're talking about large amounts.
9 And what I consider large amounts anywhere from
10 300,000 to a million transmissions a year is -- is
11 mass manufacturing.

12 But FPS, Ford Production System
13 initiatives started back in 19 -- I think '98 and
14 it's being pushed throughout Ford Motor Company, as
15 well as through Batavia. Batavia wasn't going to
16 accept BCS -- or FPS at one time. And it was
17 pretty much told by Mr. Kreyger that, yes, you will
18 be doing FPS.

19 Q. Again, he was on the board --

20 A. Yes.

21 Q. -- when he said that?

22 A. Yes.

23 Q. Other than Ford being involved through
24 Mr. Kreyger or other members of the board of

1 directors, are you aware of Ford being involved in
2 any of the changes that are at issue in this
3 lawsuit?

4 A. No.

5 Q. With respect to these conversations
6 that you had with Mr. Priest and Mr. Williams, did
7 I leave anybody out? Did you have discussions with
8 anyone other than Mr. Priest and Mr. Williams,
9 other than at the employee meetings?

10 A. No.

11 Q. Okay. Did you believe what Mr. Priest
12 and Mr. Williams told you about how things would be
13 at ZF Batavia?

14 A. Yes.

15 Q. Have any reason to believe they were
16 being untruthful with you?

17 A. No.

18 Q. Have any reason to believe that at the
19 time of those conversations with you, that they
20 knew down the road ZF Batavia was going to make
21 certain policy changes?

22 A. No.

23 Q. Okay. With respect to the employee
24 meetings that you sat through, as you sat there,

1 did you believe what was being told to you?

2 A. Yes.

3 Q. Did you have any reason to believe
4 that any of those individuals were being
5 untruthful?

6 A. No.

7 Q. Did you have any reason to believe
8 that those individuals knew that sometime down the
9 road ZF Batavia was going to make certain changes
10 to policies, procedures?

11 A. No.

12 Q. Now, who do you currently report to,
13 Mr. Steward?

14 A. Dan Sullivan.

15 Q. Is he a ZF Batavia employee?

16 A. Yes.

17 Q. What's his position?

18 A. Business manager.

19 Q. And if I understood your testimony
20 earlier, you were a business manager at some point
21 at ZF Batavia?

22 A. I was a superintendent at one time.

23 Q. Okay.

24 A. And once that -- I went into BCSS,

1 they've -- they've changed the -- actually all the
2 jobs pretty much changed in the last two or three
3 years. I mean, we went from superintendents, two
4 superintendents on days and afternoons to area
5 managers to business managers and we were -- the
6 titles have changed in the last two or three years.

7 Q. When your title changed, was that a
8 demotion?

9 A. No.

10 Q. You didn't lose any pay?

11 A. Well, I didn't lose any money.
12 Title-wise, I guess you could say it was a
13 demotion, but I didn't lose any money.

14 Q. Okay. And, in fact, you've received
15 increases in pay every year you've been at ZF
16 Batavia; is that right?

17 A. Yes.

18 Q. And your gross annual wages since
19 you've been with ZF Batavia are more than the years
20 you were with Ford, aren't they?

21 A. They're more than I was at Ford, yes.
22 But at -- they're probably less than what they
23 would be if I was back with Ford at this particular
24 time. And it was based on management role levels

1 and the band levels.

2 Q. And by that, you mean if you'd went to
3 another Ford plant somewhere else?

4 A. Yes.

5 Q. Do you know what your gross annual
6 wages would be today if you accepted either of --

7 A. No.

8 Q. -- of those other two opportunities
9 you had with Ford?

10 A. No.

11 Q. So you're speculating?

12 A. Speculating, yes.

13 Q. Your profit sharing at Ford, if the
14 numbers I've reviewed are accurate, it looks like
15 the last full year you worked at Ford in 1998, your
16 profit sharing was a just a little bit less than
17 \$7,800. Does that sound about right?

18 MR. SIMON: Mr. VanWay, just note my
19 same objection to this document that I made in the
20 earlier deposition.

21 Q. Does that sound about right?

22 A. '98?

23 Q. \$7,800 in '98.

24 A. Yes.

1 Q. And at ZF Batavia, at least --

2 A. '99, I also got a profit sharing check
3 from Ford Motor Company.

4 Q. Right. Around \$11,600?

5 A. Yes.

6 Q. Now, at ZF Batavia, the first AIP you
7 ever received from ZF Batavia was over \$15,000,
8 wasn't it?

9 A. No, that was Ford.

10 Q. You sure that was Ford?

11 A. Yes, I am. I was a ZF employee at the
12 time that I received the check.

13 Q. Well, didn't you receive two --

14 A. That was for the year '90 -- I'm
15 sorry.

16 Q. Didn't you receive two bonuses in
17 2000? While you were at ZF Batavia didn't you
18 receive two different ones?

19 A. I received the transition monies at
20 the first of the year and then I had a profit
21 sharing check for Ford.

22 Q. Well, I don't know if we need to mark
23 this, but maybe you can clear up the confusion for
24 me. I'm going to hand you what has been produced

1 in this case by ZF Batavia as Bates stamp number
2 4151. Doesn't that appear to show that you got a
3 bonus in 2000 that was part ZF and part kind of a
4 Ford true-up bonus?

5 A. Well, let me -- well, are you saying a
6 merit raise --

7 Q. Well, let me --

8 A. -- or an AIP?

9 Q. -- ask you, did you receive the bonus
10 that's reflected in that document?

11 A. Yes.

12 Q. Okay. And you would agree with me
13 that that was a bonus that was part ZF Batavia and
14 part Ford?

15 A. Yes.

16 Q. Okay. Now let me take that one back
17 from you, if I can. Let me show you Bates stamp
18 number 4150, which shows you received a bonus in
19 2000 of \$15,310.

20 A. Correct.

21 Q. Now, that was just from ZF Batavia,
22 wasn't it?

23 A. No, that was from Ford Motor Company.

24 Q. Ford paid that bonus?

1 A. Yes.

2 Q. Did you receive a W-2 from Ford in the
3 year 2000?

4 A. Yes.

5 Q. And did it reflect that \$15,000 bonus?

6 A. Yes, it did.

7 Q. Have you produced that W-2 in this
8 case?

9 A. I'm not sure I have or not.

10 MR. VANWAY: Mr. Simon, I don't
11 believe that Mr. Steward's --

12 MR. SIMON: His W-2 --

13 MR. VANWAY: -- W-2s for that year
14 have been produced.

15 MR. SIMON: Well, you had asked me for
16 a W-2 of other plaintiffs. And as for Mr. Steward,
17 is there one we just didn't produce or --

18 MR. VANWAY: It may be. I'll
19 double-check here before we convene for the day,
20 but I don't believe I have it. I'll take that one
21 back from Mr. Steward. Thank you.

22 THE WITNESS: If you happen to look on
23 that piece of paper, the exhibit, it says a grade
24 nine superintendent. And that's under the Ford

1 rules. That's what I was at Ford. See where it
2 says grade level?

3 MR. VANWAY: Bonus eligible --

4 THE WITNESS: Grade level --

5 MR. VANWAY: -- grade level nine?

6 THE WITNESS: -- nine. I was a grade
7 nine superintendent.

8 BY MR. VANWAY:

9 Q. Okay. But it's your understanding
10 that this is -- you actually got a check from Ford
11 for that?

12 A. Yes, I did.

13 Q. Okay. Do you know Eddie Adams?

14 A. Yes.

15 Q. Have you had any conversations with
16 Eddie Adams about this lawsuit?

17 A. No.

18 Q. Or about issues in this lawsuit?

19 A. No.

20 Q. Do you know if Eddie Adams has any
21 information that's relevant to this case at all?

22 A. I don't know.

23 MR. VANWAY: I don't think I have any
24 further questions. Subject to taking a quick time

1 out to check on the W-2s, I don't think I have
2 anything else, Mr. Steward. Thank you.

3 (2:03 p.m.)

4 MR. HUNTER: I do have a couple
5 follow-up questions.

6 EXAMINATION

7 BY MR. HUNTER:

8 Q. I just want to clarify your
9 understanding with respect to -- I think your
10 testimony was that the -- the benefits and
11 compensation would be the same as they were at
12 Ford. Is that fair, Mr. Steward?

13 A. I think what I -- no, it's not fair.

14 Q. Okay.

15 A. I think what I -- repeat the question
16 again.

17 Q. Let me ask it this way. What was your
18 understanding, whether based on Exhibit 2 or your
19 meetings --

20 A. Yeah.

21 Q. -- as to what the benefits and
22 compensation at ZF Batavia would look like going
23 forward?

24 MR. SIMON: Objection, asked and

1 answered. Go ahead.

2 A. Okay. What I was under the impression
3 was is that we would be treated as if we were Ford
4 employees. But we were also -- but I was given
5 this Exhibit Number 4 or number two, rather, that
6 these -- what was spelled out as in this is what I
7 would be receiving and this is what I agreed to.

8 Q. Okay. And so if --

9 A. I did not expect to be treated --
10 getting the same benefits that I had at Ford
11 because by reading this and understanding this, I
12 knew that there were some changes in it.

13 MR. SIMON: Again, the witness is
14 referring to Exhibit 2.

15 THE WITNESS: Exhibit 2.

16 Q. And so you'd mentioned, for example,
17 you felt the overtime rate at Batavia -- ZF Batavia
18 should have been increased when Ford's overtime
19 rate was increased?

20 A. Yes.

21 Q. And you believe that because of
22 something in the gray brochure or because of
23 general statements?

24 A. General statements.

1 Q. And those general statements --

2 A. We'd be treated as if we were still
3 Ford employees.

4 Q. Okay. And yet I think what you told
5 Mr. VanWay was -- but if Ford paid less in terms of
6 overtime, you shouldn't be paid less. Isn't that
7 what you told him?

8 A. What I said -- yes, that's what I
9 said.

10 Q. I guess I'm going to ask -- I don't
11 understand how that's consistent, then, with being
12 treated as if you were still a Ford employee?

13 A. Well, because I don't think there's
14 ever been a situation where Ford's taken money away
15 from anybody, as far as the overtime rates. It's
16 always increased. Same way with the merit raises.
17 Same way with the salary. In the past 20 years
18 that I was with Ford Motor Company, salaries was
19 never affected, as far as monies being taken away.

20 Q. But I think you acknowledged that
21 overtime had been modified and changed from a
22 higher rate to a flat rate?

23 A. I -- yes.

24 Q. And so if you're treated the same

1 way --

2 A. Well, wait a minute. Let's step back
3 a second.

4 Q. Okay.

5 A. I didn't mean to interrupt you. But
6 when you say "a flat rate," it depends on your
7 rate, how much money you were making. A flat rate
8 at the time that we were given a flat rate was more
9 than what we were currently making at time and a
10 half.

11 Q. Okay. But as the years progressed,
12 the flat rate changed or didn't change?

13 A. Changed.

14 Q. Okay. And if it changes to the
15 negative in the future, your position is as a
16 ZFBA -- ZF Batavia employee, you should not bear
17 that negative impact from Ford?

18 MR. SIMON: Objection just to the
19 hypothetical. Go ahead and answer.

20 A. No.

21 Q. And, again, I'm not trying to beat
22 this again, but why not?

23 MR. SIMON: Objection, asked and
24 answered.

1 A. Because I don't think anybody should
2 have money taken away from them. I don't think
3 that the past practice has been where you take
4 money away. It's always been an increase rather
5 than a decrease.

6 Q. Okay. But, again, I'm asking you --

7 A. It's a personal opinion that I think
8 that we should -- the money shouldn't be taken
9 away.

10 Q. Okay. And it's not -- and it's your
11 personal opinion, not based upon anything that's in
12 the gray brochure or anything that was told to you
13 in any of these meetings?

14 A. Correct.

15 MR. HUNTER: Okay. I have nothing
16 further.

17 MR. VANWAY: I just want to check --
18 can we go off the record?

19 MR. SIMON: Yeah.

20 (Deposition concluded at 2:07 p.m.)

21

22

Michael Steward

23

24

1 C E R T I F I C A T E

2

3 STATE OF OHIO :

4 : SS

5 COUNTY OF HAMILTON :

6

7 I, Susan M. Barhorst, a Notary Public in
8 and for the State of Ohio, duly commissioned and
9 qualified, do hereby certify that prior to the
10 giving of this deposition the within-named MICHAEL
11 STEWARD was by me first duly sworn to testify the
12 truth, the whole truth, and nothing but the truth;
13 that the foregoing pages constitute a true,
14 correct, and complete transcript of the testimony
15 of said deponent, which was recorded in stenotypy
16 by me, and on the 12th day of September 2003 was
17 submitted to counsel for deponent's signature.

18 I further certify the within deposition was
19 duly taken before me at the time and place stated,
20 pursuant to the Federal Rules of Civil Procedure;
21 that I am not counsel, attorney, relative or
22 employee of any of the parties hereto, or their
23 counsel, or financially or in any way interested in
24 the within action, and that I was at the time of

1 taking said deposition a Notary Public in and for
2 the State of Ohio.

3 IN WITNESS WHEREOF, I have hereunto set my
4 hand and notarial seal at Cincinnati, Ohio, this
5 12th day of September 2003.

6

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Susan M. Barhorst, Notary Public
in and for the State of Ohio.
My commission expires
February 18, 2004

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